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rit. Laws, statutes, etc. (Alfred)

THE LEGAL CODE

OF

ÆLFRED THE GREAT.

EDITED, WITH AN INTRODUCTION.*

*Introduction only;
see 3510, 355 for Text.*

SUBMITTED

AS A TREATISE FOR THE DOCTOR'S DEGREE

TO THE

PHILOSOPHICAL FACULTY

OF THE

UNIVERSITY OF LEIPZIG

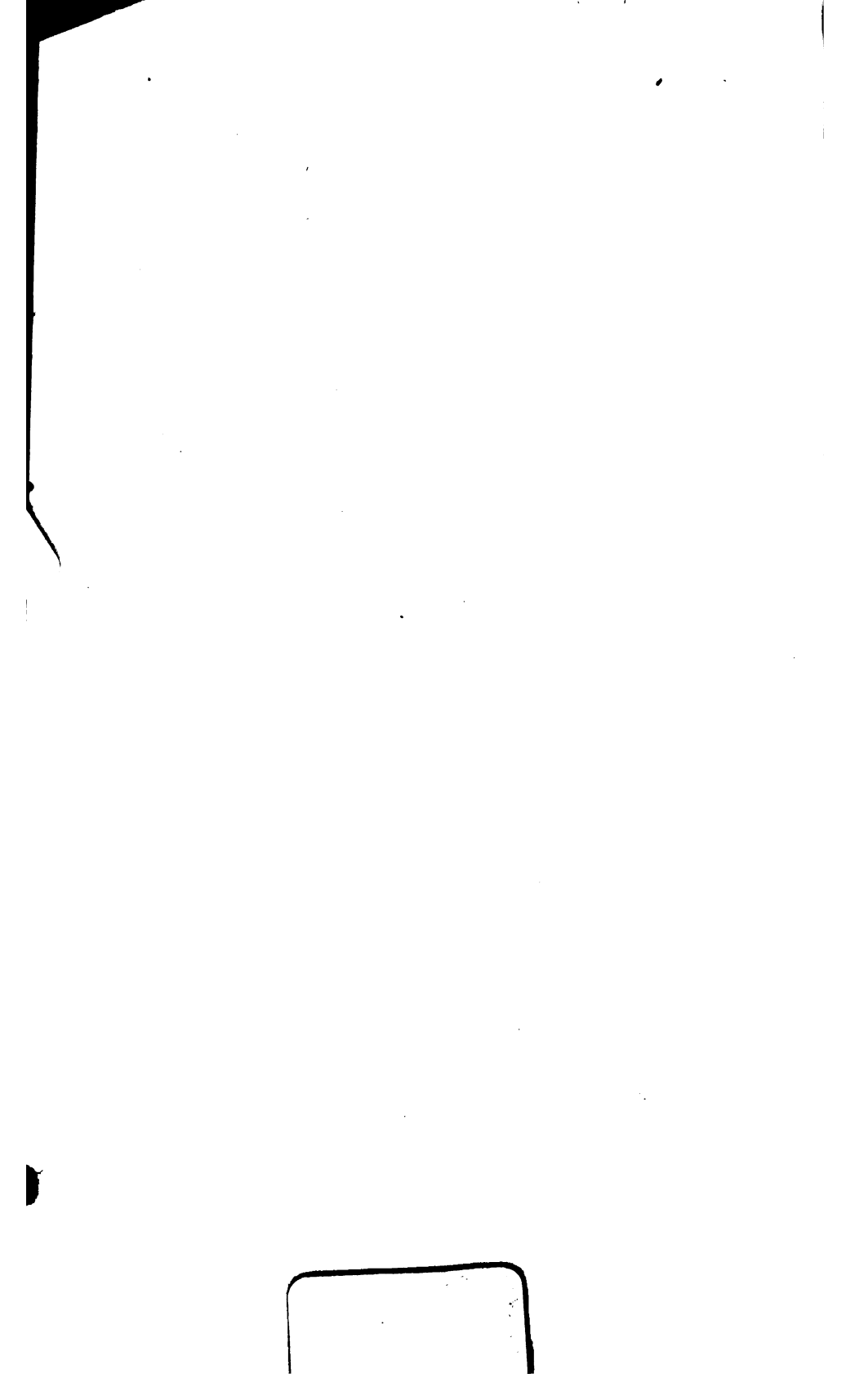
BY

MILTON HAIGHT TURK.

HALLE,

KIRCHARDT KARRAS, PRINTER.

1890.



TO MY FATHER.

(RECAP)

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PREFACE.

The preparation of a separate edition of Ælfred's Legal Code is due to the conviction that the nature of this work rendered desirable its consideration from a literary point of view. Philologically also its existence in one very old manuscript gives it among Anglo-Saxon Law-Books a peculiar value. But its chief claim to special consideration rests upon its author's great significance in Anglo-Saxon Literature. King Ælfred's literary tastes and occupations strongly colour this work; indeed in the Introduction the lawgiver is plainly supplanted by the man of letters, who, even in the actual laws, often presses close to the view. To prepare this monument for a place among Ælfred's literary works is the object of the present edition.

The last edition from the Mss. (Thorpe's, 1840) gave E rather inaccurately. We print from our own copies E, B, and the fragments Ot and Bu. The parts of the Vulgate used by Æ. in his introduction are given parallel to Ms. E. Besides the Bibliography and description and examination of the Manuscripts, with a discussion of the sources of Lambarde's text, an attempt is made to elucidate the literary characteristics of the work, to define the position of the laws called Ine's in it, and, as well as may be, to ascertain the probable date of its publication.

Although our citations are, with few exceptions, independent, yet the Bibliography owes a considerable debt to Professor Wülker's "Grundriss zur Geschichte der Angelsächsischen Litteratur", as must every work of this kind in the department of Anglo-Saxon. Furthermore, the consideration of the order of Æ.'s works in the "Grundriss", Schmidt's excellent treatise

on the Beda, and the paper "Zu den Gesetzen der Angelsachsen", by Dr. F. Liebermann, have all been of much use. For personal favours in connection with this work the editor is further indebted to Prof. Wülker and to Dr. Liebermann. The Revd. Samuel S. Lewis, M. A., F. S. A., Fellow and Librarian of Corpus Christi College, Cambridge, has laid him under obligations by many kind acts, including securing for his use from the Revd. F. J. A. Hort, D. D., LL. D., Professor in Cambridge, opinions on important points in Ælfred's use of Biblical sources. To these gentlemen and to the Revd. T. K. Cheyne, D. D., Canon of Rochester Cathedral, for placing the Textus Roffensis at his disposal, the editor wishes in this place to return hearty thanks.

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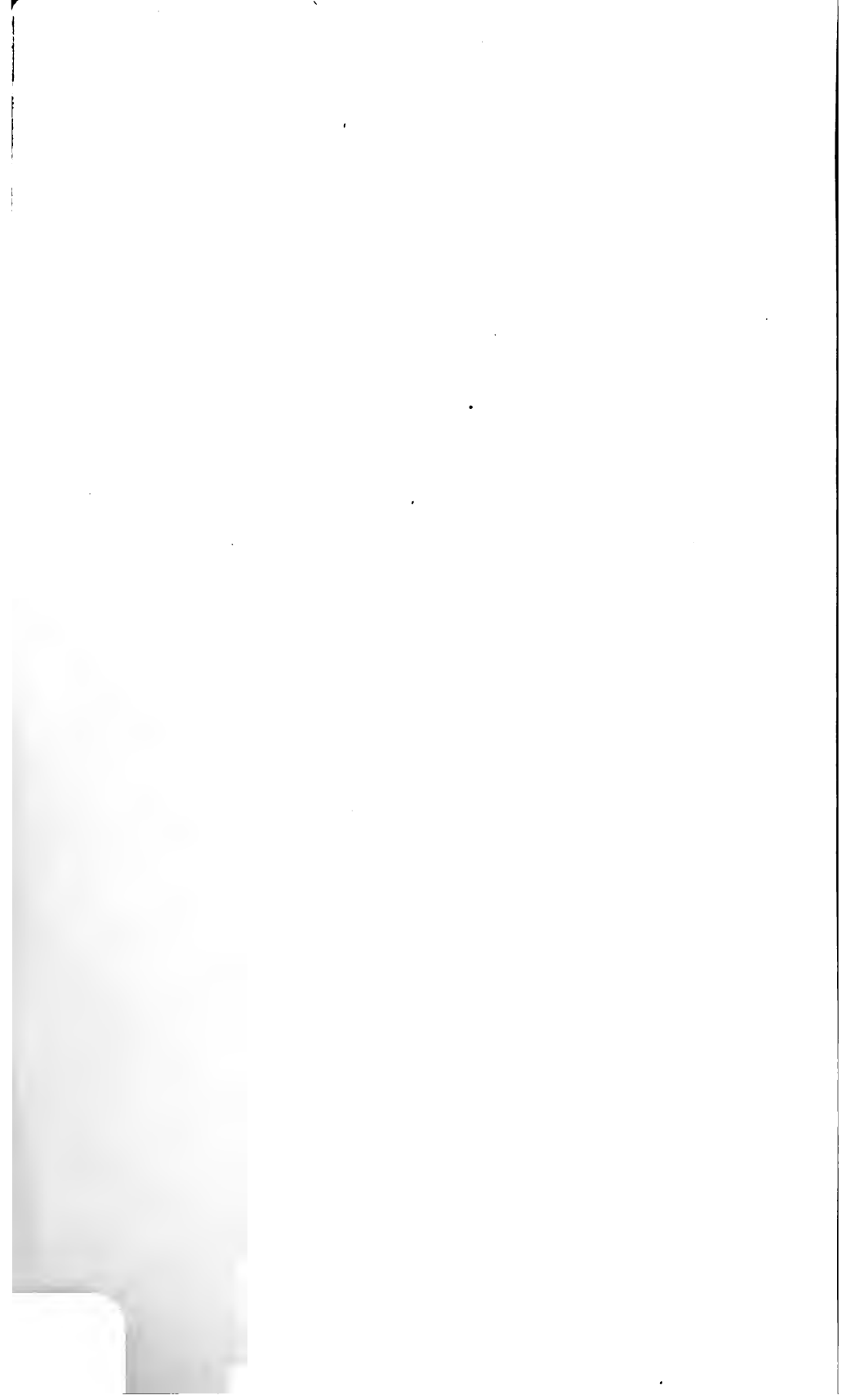
General Note.

Abbreviations need no explanation. Works in Bibliog. are often referred to as IA, IB etc. in the foot-note. Page of the work referred to is mentioned in foot-note, if not given in Bibliog.

The choice and arrangement of texts and variants are explained on pp. 24—5. In the A.-S. Texts the Italics indicate an insertion not in the Ms. The completion of the ordinary abbreviations falls under this head. In the Vulgate Text Italics denote parts not used by Ælfred. As to the Variants, abbrev. common in A.-S. Mss. are not noted (E. g. þ crossed for þæt, þoñ (þonne) etc., neither are þ (ð), nor a larger or smaller letter nor the want of an accent. All accents in variant texts are noted, whether basic text has one or not. A number of words together indicates always a changed order, a word substituted or added. For a word wanting "vac.", for a letter erased a hyphen in its place, for a letter inserted "above" (ab.).

PART FIRST.

INTRODUCTION.



I. BIBLIOGRAPHY.

A. Manuscripts of Ælfred's Code.

925—50. **E.** Ms. of Corpus Christi College, Cambridge, No. 173. P. 65—104, Code complete.

1000—25. **Ot.** Ms. of British Museum Cottoniana Otho B XI. Three burned leaves, reset as 49, 50 and 52—3. First leaf of Code, XXXVI (40) to XXXIX (43), and last leaf.

1025—50. **Bu.** Ms. of British Museum Burney 277. A double leaf: XLIV (Ine Introd.) to LXVII (Ine 23).

1075—1100. **G.** Ms. of British Museum Cottoniana Nero A I. Fol. 45a—48a and 51a—57b, Code to Introd. 49, 5.

1100—25. **H.** Ms. of Rochester Cathedral called Textus Roffensis. Fol. 9a—31b, Code complete.

1125—50. **B.** Ms. of Corpus Christi College, Cambridge, No. 383. P. 13—42, Code incomplete, beginning to IV (3) and XXXVII (41) to XXXIX (43) being wanting. — Also p. 6, the shorter and p. 83—4, the longer, text of Peace between Æ. and Guthrum, Appendix C.

B. Editions of the Code.

1568. LAMBARDE. *APXAIONOMIA*, sive de priscis anglorum legibus libri, sermone Anglico, vetustate antiquissimo, aliquot abhinc seculis conscripti, atque nunc demum, magno iurisperitorum & amantium antiquitatis omnium commodo, è tenebris in lucem vocati. Gulielmo Lambardo interprete. Londini, ex officina Joannis Daij. An. 1568. (4 to).

Fol. 0b—44a Code with a free Latin translation by Lamb. (0b Ines æ, Leges Inæ Regis; 18b Præfatio in leges Aluredi regis; 26b Ælfredes æ, Leges Aluredi Regis.) Text from unknown sources. Cf. p. 17 and p. 23. — Fol. 44b—46a gives longer text of Peace betw. Æ and Guth., slightly different from B.

1644. WHELOCK. (2nd edition of Lambarde.) *Αρχαιονομία*, etc., as above. Gulielmo Lambardo interprete. Sexcentis in locis a libro ipsius castigata, quo pro exemplari utimur; cum multis aliis additionibus. Accessere in hac nostra ultima editione leges Heurici primi, nunc primum

editæ, ex manuscripto in fisco regis habito: Una cum Glossario earum antiquo ex manuscripto codice olim S. Augustini Doroboriensis. *Cantabrigiæ*: ex officina Rogeri Daniel, celeberrimæ Academiæ typographi. MDCXLIII. Prostant Londini apud Cornelium Bee, sub Insignibus regalibus in vico vulgo vocato Little Britain. (Folio.)

P. 1—35 Code with transl. (1 Ines æ etc.; 15 Præfatio etc.; 22 Ælf. æ.) Translation only revised. — Ælf-Guth. follows Code.

1721. WILKINS. *Leges Anglo-Saxonice Ecclesiasticæ & Civiles*. Accedunt *Leges Edvardi Latinæ*, Guilielmi Conquestoris *Gallo-Normannicæ*, et *Henrici I. Latinæ*. Subjungitur Domini Henr. Spelmanni *Codex Legum Veterum Statutorum Regni Angliæ*, quæ ab ingressu Guilielmi I. usque ad annum nonum Henr. III. edita sunt. Toti Operi præmittitur *Dissertatio Epistolaris* admodum Reverendi Domini Guilielmi Nicolsoni Episcopi Derrensis *De Jure Feudali Veterum Saxonum*. — Cum Codd. MSS. contulit, Notas, Versionem & Glossarium adjecit David Wilkins, S. T. P. Canonicus Cantuariensis, Reverendissimo in Christo Patri ac Domino Domino Guilielmo Divina Providentia Archiepiscopo Cantuariensi, &c. &c. a Sacris Domesticis & Biblioth. Londini, Typis Guil. Bowyer, impensis Rob. Gosling ad Portam Medii Templi Bibliopolæ. MDCCXXI. (Folio.)

P. 14—46 Code. (P. 14 *Leges Inæ*; p. 28 *Leges Ælfredi*.) Text on inside, transl. on outside columns, with variant readings and copious historico-legal notes below. Text is substantially Lamb. Mss. E and H are used in variants and occas. in text. — P. 47 *Fœdus Ælfredi & Guthrumi Regum*. L's text with Lat. transl. and foot-notes.

Proposals concerning this edition appeared some time before. Hickes as Præfatio shows, desired it made, and Wm. Elstob worked upon it. Wilkins began his work in 1716. He reprints Lamb's and Whelock's prefaces and their foot-notes.

1832. SCHMID. *Die Gesetze der Angelsachsen*. In der Sprache mit Uebersetzung und Erläuterungen herausgegeben von Dr. Reinhold Schmid, Professor der Rechte zu Jena. Erster Theil, den Text nebst Uebersetzung enthaltend. Leipzig, F. A. Brockhaus, 1832.

P. 14—57 Code (P. 14 *Ine's Gesetze*; P. 32 *Ælfred's Gesetze*), text and German translation parallel. The *Introd.* is here divided into chapters, substantially as now, but termed: *Mosaïsche Gesetze*. The Text is Wilkins's. — A second part was not published; Thorpe brought so much new material that a second edition of the whole was made, which superseded this and is always meant by the citation 'Schmid'.

1840. THORPE. *Ancient Laws and Institutes of England*; comprising *Laws enacted under the Anglo-Saxon Kings from Æthelbirht to Cnut*, with an English Translation of the Saxon; *The Laws called Edward the Confessor's*; *The Laws of William the Conqueror*, and those ascribed to Henry the First; also *Monumenta Ecclesiastica Anglicana*, from the seventh to the tenth century; and the *Ancient Latin Version of the Anglo-Saxon Laws*. with a compendious Glossary, &c. Printed by

command of His late Majesty King William IV under the direction of the Commissioners on the Public Records of the Kingdom. MDCCCXL. (Volume the First; containing the Secular Laws.)

P. 44—151 Code in proper Ms. order und Engl. Transl. on opposite pages. Text (not very accurate) of E with variants from B, G, and H. — Ælf-Guth. is given p. 152—7 acedg. to B (both texts) with transl. To Vol. I is prefixed a list of Mss. where the designations are assigned that have been retained and augmented since. The Introd. is short.

This edition was begun by R. Price and our Code was of the part already in press at his death. Th. retains Price's work upon it.

1858. SCHMID. *Die Gesetze der Angelsachsen. In der Ursprache mit Uebersetzung, Erläuterungen und einem antiquarischen Glossar herausgegeben von Dr. Reinhold Schmid, Professor der Rechte zu Bern. Zweite, völlig umgearbeitete und vermehrte Auflage. Leipzig: F. A. Brockhaus. 1858.*

P. 20—105 Code, text on left, German and ancient Latin transl. on right hand pages. (Latin of Introd. 1—48 wanting. P. 20 Ine's Gesetze; p. 58 Ælfred's Gesetze, Einleitung; p. 68 Ælfred's Gesetze.) Text and variants are Thorpe's, but old misplacement of Ine's Laws retained from Schmid I, and many of B's chapter headings are given. — Ælf. Guth. P. 106—9 acedg. to Thorpe and Lamb. with transl. From Wanley's Catalogue, chiefly, Ed. has compiled the first detailed account of Mss. containing A.-S. Laws; he gives also a useful introduction and a learned Antiquarian Glossary.

This, the best edition of A.-S. Laws, is still very lacking, especially from a philological point of view. A new edition is therefore in preparation for the 'Savigny Stiftung'. From its editor has already appeared, as a valuable addition to Schmid's information concerning Mss.:

1854. F. LIEBERMANN. *Zu den Gesetzen der Angelsachsen. Zeitschrift der Savigny Stiftung für Rechtsgeschichte. Fünfter Band. Germanistische Abtheilung. S. 198—226.*

Here Bu is mentioned for the first time and the first two leaves of Ot. The relation of the Mss. is discussed and mistakes of Th.-Sch. corrected. For the ancient Latin Version much is done.

C. Extracts from the Code.

1566--7. *A Testimonie of Antiquitie, shewing the auncient fayth in the Church of England touching the sacrament . . . , aboue 600 yeares agoe Imprinted at London by John Day*

The first A.-S. publication. At the end Decalogue according to Ms. E (10 wanting). Reprint: 1849 and 1875. 3odcunde Lar 7 beowdom. Others under original title.

1610. M. FREHER. *Decalogi, orationis, symboli Saxonica versio vetustissima. Anno MDCX. Place not given. Decal. reprinted from above.*

1623. W. L'ISLE. *A Saxon Treatise concerning the Old*

and New Testament, . . . a second edition of A Testimonie of Antiquitie, etc. . . . London, printed by John Haviland . . .

1639. H. SPELMANN. *Concilia, decreta, leges, constitutiones, in re ecclesiarum orbis Brittanici, . . . opera et scrutinio Henrici Spelmann. Primus tomus . . . Londini . . . (Folio).*

P. 354—364 *Præfatio, seu apparatus R. Alur. M. etc.*; p. 364—375 *Leges Eccles. Alur. M. R. Angl. etc.*; p. 182—186 *Leges Eccles. Inæ etc.* Lamb.'s text and transl.

1650. M. Z. BOXHORNII *Rudimenta Religionis Christianæ Antiquissima Saxonum & Alemannorum linguâ scripta. Lugdunensis Bata-vorum.*

Entire introd. acedg. to Lamb., exc. Decalogue, acedg. to Freher and the Testimonie.

1713. J. G. ECCARDI *Monumenta Cathæchetica Theotisca, Hanoveræ. Decalogue reprinted from Freher.*

1727. J. SCHILTERI . . . *Thesaurus Antiquitatum Teutonicarum, Eccles., civil., literarium. Tomus Primus . . . Ulmæ sumptibus Danielis Bartholomæi.*

Tomi Primi Pars Altera (third numbering). P. 76—7 Decal. Eccles. Anglo-Saxonica sub Rege Aluredo; p. 89 Synod. Apost. Epistola . . . quæ in Concilio Hierosolymitano scripta . . . Actor. XV. 23—29 . . . Text of Lamb.-Whelock, with many blunders.

1737. D. WILKINS. *Concilia Magnæ Britanniae et Hiberniae, a Synodo Verolamiensi A.D. CCCCLXVI. ad Londinensem A.D. MDCCXVII. . . . a Davide Wilkins, . . . collecta. Vol. I (446—765) Londini sumptibus R. Gosling . . . (Folio).*

P. 186—191 *Rex Saxon. Ælfred, Præfatio; p. 191—194 Leges eccles. Ælf. M. regis Angl.; p. 58—59 Leges eccles. Inæ regis occid. Saxon. Text substant. that of Wilkins's Leges. Mss. named are not used.*

1798. J. OELRICHS. *Angelsächsische Chrestomathie Hamburg u. Bremen. P. 45 Die zehn Gebothe, ex Leg. A. Sax. Wilkins's Text, with errors.*

1838. H. LEO. *Alt- u. Angels. Sprachproben. Halle. No. 8, p. 39—51, König Ina's Gesetze (complete). Text of Schmid I.*

1847. F. W. EBELING. *Angels. Lesebuch. Leipzig. No. 2, Aus den Gesetzen König Ine u. Ælfred.*

1849. L. F. KLIPSTEIN. *Analecta Anglo-Saxonica. New York, Putnam. Vol. I, No. 24, From A.-S. Laws.*

1850. L. ETTMÜLLER. *Engla and Seaxna Scopas and Boceras. Quedlinburg und Leipzig. No. 10, Aus den Gesetzen der Ags. P. 56 Ine, p. 57 Ælfred. Text of Wilkins.*

c. 1855. T. MÜLLER. *Angels. Lesebuch (never publ. complete). No. 10, p. 88—92, Gesetze König Ine's. No. 11, p. 92—6, Ges. König Ælfred's.*

1861. M. RIEGER. *Alt- u. Angels. Lesebuch. Giessen. P. 159, Aus Ælfreds Gesetzen; P. 161, Aus Ine's Ges. Text of Thorpe emended.*

1870. F. MARCH. *Introduction to Anglo-Saxon*. New York. P. 43, *Laws of Alfred*.

1880. A. S. COOK. *Extracts from the Anglo-Saxon Laws*. New York, Holt. P. 2—4 *Ine*; p. 4—6 *Ælfred*. Text of Thorpe emended.

1880. K. KÖRNER. *Einleitung in das Studium des Angelsächsischen*. 2. Teil: *Ags. Texte*. Heilbronn. No. 14, p. 54—7, *Einleitung zu Ælfred's Gesetzen*. Text of Schmid emended.

1884. H. SWEET. *Anglo-Saxon Reader*. Fourth Edition (No *Laws* in previous editions). Oxford, Clar. Press. No. XI, p. 51—3, *From the Laws (Ine's)*. Text of Ms. E.

1888. F. KLUGE. *Angelsächsisches Lesebuch*. Halle. No. VII, p. 33—5. *Aus den Gesetzen (Ine's)*. Text reprinted from Sweet.

D. Translations of the Code.

c. 1113—20. *Vetus Versio (Ve.)*, an ancient Latin translation comprising, with most other codes, that of *Æ.*, which is given first (*Ine* being in all old Mss. at the end of the code). The rendering was made as the first part of the Law-Book of Henry I by a cleric no longer altogether master of the A.-S. tongue. He probably belonged to East Middle England.¹⁾ This Code in this Version is found in a number of Mss.²⁾

c. 1150. Hk. *Holkham Ms.* f. 34—53. Code complete.

c. 1175. Dm. *Ms. Brit. Mus. Cott. Domit. VIII.* f. 107—109 b. Beginning of code.

c. 1190. R. *Ms. Brit. Mus. Reg. 11. B 2.* f. 118—136. Code.

c. 1190. M. *Macro Ms.* Beginning lost. f. 46—49. End of code.

c. 1250. T. *Ms. Brit. Mus. Cott. Tib. A 27.* f. 104 b seqq. Code.

c. 1290. K₂. *Ms. Brit. Mus. Cott. Claud. D 2.* made under Eduard I. Makes use of f. 2—4 *Ine*, f. 5 seqq. *Æ.* from *Intr.* 49 on.

c. 1300—25. Co. *Ms. C. C. C. C. No. 70.* f. 2 *Ine*, f. 5 seqq. *Æ.* (wi. *Intr.*).

c. 1425. Br. *Ms. C. C. C. C. No. 96*; Br. *Ti. Ms. Cott. Tib. E. XIII.* Two Mss. of *Bromton's Chronicle*, written in the 14th century, which makes use of *Ve.* from *Intr.* 49 on, putting *Ine* first.

Ve. was published except *Introd.* 1—48 incl. by Thorpe³⁾ from T compared with Br. Hk. and M., and by Schmid⁴⁾, who adds variants from *Bromton*.

Of modern translations we have LAMBARDE⁴⁾ a Latin paraphrase; WHELOCK⁴⁾, Lamb. with corrections; WILKINS⁴⁾, Latin, closer than Lamb., but with many blunders; SCHMID⁴⁾, German, the best extant; THORPE⁴⁾ a fair English translation; GILES in 'The Whole Works of King Alfred the Great. Jubilee Edition. London 1858.' Vol. III (bound with II), No. XXI, a bad English translation, not complete. The translator wishes to show by using a large number of non-existent words, how

¹⁾ cf. B., Liebermann, p. 199.

³⁾ cf. B., Vol. II, p. 447—472.

²⁾ cf. same, p. 202—6.

⁴⁾ cf. B.

much Modern English resembles A.-S. He proves conclusively that it is very different. His translation is unintelligible to one not acquainted with Anglo-Saxon.

E. Writings concerning the Code.

1678. J. SPELMANN. *Ælfredi Magni*. . . . Vita. Oxonii (Folio). P. 62—67.
 1831—2. F. PALGRAVE. *The Rise and Progress of the English Commonwealth. Anglo-Saxon Period*. . . London. Vol. I, p. 47—8.
 1840. THORPE. (cf. B) Vol. I, p. X.
 1851. R. PAULI. *König Ælfred und seine Stelle in der Geschichte Englands*. Berlin. P. 164—176. Translation by THORPE, R. Pauli's Life of Alfred the Great. London. (Bohn's Lib.) 1853. — An interesting and instructive account.
 1858. SCHMID. (cf. B.) P. XXXV—XXXVII and p. XXXIX—XLI.
 1877. B. TEN BRINK. *Geschichte der Englischen Litteratur*. Bd. I. P. 89—90. Translation by KENNEDY: *Early English Literature*. London (Bohn's Lib.). 1883. P. 71.
 1885. R. WÜLKER. *Grundriss zur Geschichte der Angelsächsischen Litteratur*. III. § 454—459.
 1887. G. KÖRTING. *Grundriss zur Gesch. der Englischen Litteratur*. I. § 59.
 The language of Thorpe's ed. of Ms. E of the Code finds phonological treatment in:
 1883. O. PRIESE. *Die Sprache der Gesetze Aelfred's des Grossen und König Ine's*. Strassburg. (Dissertation.)

F. Other Works of Importance.¹⁾

1722. F. WISE. *Annales Rerum gestarum Ælfredi Magni, auctore ASSERIO Menevensi*. Oxonii.
 1840. T. D. HARDY. *Guilielmi Malmesburniensis Gesta regum Anglorum*. Engl. Hist. Soc.
 1851. PAULI. (cf. E.) P. 212—240. Transl. also.
 1859. J. BOSWORTH. *King Alfred's A.-S. Version of Orosius*. London. Introd. P. VIII.
 1871—2. H. SWEET. *King Alfred's West-Saxon Version of Gregory's Pastoral Care*. London. E. E. T. S. Introduction; p. XXXIX—XLII. — A.-S. Text here. Latin in Migne, *Patrologiae Latinae* Tomus 77. P. 14—127.
 1876. R. WÜLCKER. *Ueber die Quellen Lagamons in Paul u. Braune's Beiträgen zur Gesch. der Deutschen Spr. u. Litt*. Bd. III. P. 527—532, on Ælfred's Beda. — A.-S. Text in J. SMITH. *Historiæ Ecclesiasticæ Gentis Anglorum libri V*. . . . auctore . . . Bæda. Cantabrigiæ, 1722. P. 471—649. Latin also; better in A. HOLDER. *Bædæ Hist. Eccl. gent. Angl.* Freiburg u. Tübingen, 1882. or G. MOBERLY. Oxford, 1881.

¹⁾ Useful in determining the date of the code.

1877. TEN BRINK. (cf. E.) P. 94—103. Translation. P. 74—81.

1885. A. LEICHT. Zur Angelsächsischen Bearbeitung des Boetius, in *Anglia* Bd. VII, p. 187—202. — A.-S. Text in S. FOX. King Alf. A.-S. Version of Boethius de Cons. Phil. London (Bohn), 1864. Latin: R. PEIPER. A. M. S. Boetii Philos. Consolationis Libri V. Lipsiæ, 1871.

1885. WÜLKER. (cf. E.) III. § 438—486, espec. § 439—452. The starting-point of III, Chapter II, on the date. Accepted by all following.

1886. H. SCHILLING. König Ælfred's Ags. Bearb. der Weltgeschichte des Orosius. Halle. — A.-S. Text in H. SWEET. King Alfred's Orosius. Part I. London: E. E. T. S. 1883. Latin also; complete in ZANGEMEISTER. P. Orosii Hist. adversum paganos libri VII. Vindobonæ, 1882.

1887. A. EBERT. Allgemeine Gesch. der Literatur des Mittelalters im Abendlande. 3. Band. Leipzig. P. 239—248.

1887. KÖRTING. (cf. E.) I. § 53—60.

1889. J. WICHMANN. König Aelfred's Angels. Uebertragung der Psalmen I—LI. Leipzig (Diss.), also *Anglia* Bd. XI, p. 39—96.

1889. A. SCHMIDT. Untersuchungen über König Ælfred's Bedäübersetzung. Berlin (Diss.) cf. sub 1876.

II. THE MANUSCRIPTS.

A. History and Description of each Ms.

1. Ms. E.

This manuscript is to be found in the Library of Corpus Christi College, Cambridge, as No. 173 (according to the old enumeration S. 11). Thither it came through the gift of Archbishop Matthew Parker, who, in collecting from various sources Mss. relating to Saxon antiquities, took this one from the Cathedral Library of Christ Church, Canterbury, where it had been since the beginning of the eleventh century. It seems to have been brought thither from Winchester, where it was written and attached (but not immediately) to the well-known Parker Chronicle, with which it is now bound in one volume. — Shortly after Parker found it, it was used for the text of the Decalogue found in the *Testimonie*¹⁾, which Joscelin, Parker's secretary, is believed to have edited at the latter's instance in 1566—7. Lambarde in 1568 must then have known it; whether he used it at all is doubtful. About this time E was used to gloss and complete the fragment G, probably by Joscelin. Wilkins in 1721 gave occasional variants and textual emendations from it, which Sch. I in 1832 followed. Thorpe in 1840 printed it in full, whom Sch. II in 1858 followed.

The volume is a small folio; it is of very heavy parchment and well preserved. The Ms. of the Chronicle in the beginning of the volume, written by different hands at different times, is the best extant. Itself beginning a layer, our code,

¹⁾ cf. I C.

complete and unaccompanied by any other laws, occupies pages 65—104. It is written throughout in the same hand. The hand is very round and large, and equally fair and clear throughout. The text remains perfectly plain, except that in a few places it is rubbed somewhat dim, the parchment being so very hard and smooth that the ink did not take good hold, and a few pages are spotted as if splashed with water. There are, however, practically no doubtful readings whatever. Occasional holes in the parchment, a few pages of which are rough, with flaws, were avoided by the scribe. The scribe makes a wide margin, which he rarely oversteps, by means of scratched lines. In the same way he marks off the lines, twenty five on the page. He puts the numerals designating the chapters generally in the space left on the last line of the chapter preceding; if there be none, he either leaves a place at the end of the first line of the new chapter, or he puts the numeral in the middle of a line by itself. He never puts a numeral on the margin, nor at the left just before the beginning of a chapter, where we would naturally place it. The chapter headings occupy nearly five pages, the rest of the fifth and all the sixth page are then left blank. The text then begins with a number of capitals, of which the first, *D*, is merely marked out very large, probably to be made in red or illuminated, which was never done. Each chapter begins with a capital from $1\frac{1}{2}$ to 3 lines deep; some of these are quite ornate, but in black ink only. At the end of each chapter is a punctuation mark consisting of two dots with a comma just below them. Capitals smaller than those beginning the chapters, but not of uniform size, are used within the chapters to begin sentences and clauses. Here the capital *G* like the modern letter (only with square corners) is never used; the other, shaped like the small letter (*g*) alone appears and being of all possible sizes is hardly to be distinguished in many cases from the small *g*.¹⁾ The dot above the line is the only punctuation within the chapter. Such a dot appears also on each side the numerals and occasionally also between *X* and *V*.

¹⁾ On this account in printing we must be guided occas. by the sense.

Only once (*oððe æt his swister borenre* 42, 7) is anything of importance added above the line and then the customary comma-like mark designates the place of insertion. It is worth notice that the first three *y*'s (*scyle, borz bryce, cynzes*) are in the old form, with points toward the left, in imitation, no doubt, of the Ælfredian original. Besides the common A.-S. *s*, the long *ſ* is also found throughout the Ms. There are a considerable number of accents.

On palaeographical grounds this Ms. is to be assigned to the second quarter of the tenth century.

2. Ms. Ot.

This manuscript is in the British Museum catalogued as Cottoniana Otho B XI. The volume is now a collection of 53 badly burned leaves, carefully reset in pages of thick paper and beautifully bound. The Ms. came to the Museum with the Cotton collection after it was partially destroyed in the great fire of 1731 at Ashburnham House. Originally¹⁾ the Ms. contained the Chronicle to 1001 copied from the Parker Chronicle, Ælfred's Beda, our Code, and part of the Laws of Æðelstan. The Code is in the same hand with the Chronicle and was therefore probably made at Winchester, possibly at Canterbury.²⁾ — No use seems to have been made by editors of this Ms. of the code. Lieb.³⁾ gives some variants from the first two of the three leaves.

The Ms. was an octavo volume of good parchment. All that now remains of our code, are the charred fragments of three leaves, reset, wrong side first, as f. 49, 50 and 52—3 (the last leaf is set in two pieces, whose relation to each other escaped apparently the restorer). Fol. 49 contains the chapter headings to LIII, fol. 50 the Laws XXXVI (40) *hundnigontiz* to XXXIX (43) *weorpunze*, 52—3 contains CX (Ine 66) to end. The handwriting is exceedingly regular and ornate; in shape it is more elongated than that of E. There are 27 lines on the page. Enough can easily be deciphered to show that

¹⁾ Cf. Wanley's Catal., p. 219.

²⁾ Cf. above, under Ms. E.

³⁾ Cf. I B, p. 219—21. Before Lieb. it was not known that fragments of our code remained in this Ms.

in respect of capitalization, the placing of numerals, etc., Ot is entirely similar to E. Occasionally a letter stands above another (*i* above *y* in *zyf*, to imitate the original) and sometimes a letter is inserted above a word with the use of the comma, as in E. Ot seems to have had no accents.

This Ms. is assigned to the first quarter of the eleventh century. This date is sufficiently established by its being together and in the same hand with the copy of the Chronicle to 1001.

3. Ms. Bu.

This manuscript is to be found in the British Museum, catalogued as Burney 277.¹⁾ It is one of a large number of miscellaneous fragments, mostly Latin, that have been attached to blank leaves in a large folio volume. It is a double octavo parchment leaf, which was used as a book cover and is punctured with holes made in sewing. On one side of it a great part of the text is obliterated. It was the inside double leaf of its layer and gives therefore a continuous text, extending from XLIV (Ine Introd.) *æfter* to LXVII (Ine 23) *mæges*. — The hand here is not a fair one; the letters are elongated similar to Ot. It follows the same rules as to placing numerals, etc., as the other Mss. There are 25 lines on the page. No accents are to be seen in the fragment.

This Ms. is to be placed in the second quarter of the eleventh century.

4. Ms. G.

This manuscript also is in the British Museum, in the Cottoniana Nero A I. It is said to have come from the Cathedral Church of Worcester. It may be one of the Mss. collected at the instance of Archbishop Parker; to Joscelin, Parker's secretary, are ascribed the glossing and completing of this Ms. acedg. to E. It then passed, like many copies etc. by Nowell, Lambarde and others, into the collection of Sir Robert Cotton. — Thorpe 1840 printed variants from it, which Schmid II 1858 followed.

This is an unhandy volume, very small, not more than

¹⁾ It was not known until Liebermann, cf. I B, p. 203.

duodecimo, and very thick. It is of heavy parchment. Many layers throughout the volume, which is a collection of laws, are wanting. What remains, however, is in an excellent state of preservation.¹⁾ Leaves 45 a—48 a contain the chapter headings of our code. Immediately upon these on the same page, 48 a, follows, '*Romzescot sƷ azifen on scs. petrus mæssedæg etc.*', then, still on the same page, '*Ælc man þe riht demeð etc.*', which extends to fol. 50 b. On the blank part of this page is written a Latin version of Ælf. Introd. 49, 9, presumably by Joscelin according to Bromton²⁾. Leaves 51 a—57 b contain the text of the code to Introd. 49, 5 *ðæt*, within two words of the end of the Apostolic Letter. — The hand of Headings and Introduction is unquestionably the same with that of the pieces separating them. It is round and not especially beautiful. The scribe leaves almost no margin and gets 19 lines on the small page. Capitals are sparingly used. The *D* of *Drihten* (the first word) is here altogether wanting. A number of careless mistakes are made, E. g. *Be þan ðe mannes gestalige for geneat stalige* LXVI. G has a large number of accents. The headings of this Ms., excepting I and XLIV (*Be ines domum*), are glossed in Latin, by Joscelin according to Bromton, no doubt, who puts Ine's Laws before the rest of the code and omits these two headings. The text is glossed from Ms. E., some words being crossed because wanting in E., and then all the rest of the code is added accdg. to E., except the chapter headings inserted over each chapter, which are sometimes from G. All this is the work of Joscelin. As no erasures were made, the Ms. is not injured, and the additions may be simply disregarded.

This Ms. seems to belong to the last quarter of the eleventh century.

5. Ms. H.

This manuscript is in the strong room of Rochester Cathedral, where it has been for some seven centuries. It is commonly called *Textus Roffensis*, also *Chronicon Claustrī Roffensis*. It was made in the reign of Henry I at the command of Bishop Ernulf of Rochester, who died in 1124. That it was written,

¹⁾ Full contents Lieb. (I. B) p. 203.

²⁾ Cf. I. D. *Vetus Versio*, last mentioned Mss.

however, in Canterbury rather than in Rochester concludes Liebermann from the fact that the scribe, having copied down Cnut's gift to Christ Church, Canterbury, then stops, leaving the rest of fol. 58 blank. — Lambarde used this Ms. in 1576 in the 'Perambulation of Kent'¹⁾, p. 307—312, though evidently not in the 'Archæionomia' 8 years before. Thos Hearne²⁾ published 'Textus Roffensis, Oxonii, 1720' with the omission, however, of all pieces that had already appeared in the two editions of the Arch. (and were about to appear a third time in Wilkins's *Leges*). Wilkins 1721 used H with E for variants and occasional emendations, Thorpe 1840 gave more variants from it.

The Ms. is a quarto on heavy parchment, a thick volume. It alone contains the laws of Æðelbirht of Kent, as well as the two codes ascribed to Hlothar and Eadric and to Wihtræd, of Kent. Fol. 9a to 31b contain our code complete.³⁾ It is written in a very fair hand, but its neatness is marred by many erasures and numberless instances of letters or even words above the line, the customary comma being used as a sign. Like the Ms., the corrections, apparently in the same hand, are carelessly made and while they often bring the Ms. into conformity with its original, must in many instances take it farther from it. The Ms. is to be read as it stands, as the corrections are old ones and, many erasures having taken place, the original readings are undiscoverable. The margins here are of considerable width and there are but 17 lines on the page. The chapter headings are crowded into two columns on the page. The numerals are in red here and throughout the Ms., where as in other Mss. they are repeated at each chapter. There is a greater profusion of capitals here than in the before mentioned Mss. Occasionally the old *y* with the points toward the left appears, copied presumably from the original. H has very few accents.

This Ms. as already shown, belongs to the first quarter of the twelfth century.

¹⁾ See Grundriss I § 9.

²⁾ See Grundriss I § 37.

³⁾ See Schmid, p. XXIII, for full contents.

6. Ms. B.

This manuscript is in the Library of Corpus Christi College, Cambridge, No. 383 (19, 2). It may have been used by Lambarde, but in later days its existence has been unknown until Thorpe. Liebermann has assigned it to Essex or that neighbourhood. — Th.-Sch. have variants from it.

This Ms. is a small octavo on parchment. In it our code originally stood complete p. 1—48 (in all probability), but before the pages were numbered the first layer was lost and the fourth, of 12 pages, was bound in its place; the sixth leaf of the second layer was also lost. What now remains stands therefore on 30 pp. numbered 13—42. These contain ¹⁾ IV (3) *oðres bisceopes* to the end of XXXVI (40), and XXXIX (43) *dagas to eastron* to end of the code. On the page numbered 6 is found the shorter, and on pp. 83—4 the longer text of the Treaty of Peace, Appendix C, both in the same hand. — The handwriting of B is neat and clear, but very compressed in every way; the scribe, keeping fair margins, gets 26 lines on the page. The numerals are left to be made in red; so is the first letter of every chapter, the first two lines beginning back from the margin to give space for it.

The numerals were never made, but the capitals were supplied much later by a very indifferent penman, who made in red ink awkward round capitals that never take up the space left for them. The same hand inserted also in red in a very slovenly manner in the space left of the last line of a chapter and on the right hand margin a set of chapter headings, — this continues throughout the volume, which is a collection of legal documents — introducing on the margin many new ones, where B, like all other Mss., makes no new chapter and requires no such heading.

Still another and much later hand has been at work on B, supplying in black ink on the margins omissions noted in the Ms., using a sign consisting of a circle with a dash through it, and occasionally adding a letter, or 7. These additions are altogether foreign to B and easily distinguishable from it, and can only be taken into the text, if taken at all, in italics, like

¹⁾ Full contents Lieb. (I. B), p. 202.

a reading from another Ms. New accents are also recognisable and are to be rejected always. — As to the chapter headings just mentioned, although they are cited as belonging to B, it must be borne in mind that the original set of headings that undoubtedly preceded B were like those of older Mss. and very different from these later additions.

This Ms., later additions aside, belongs probably to the second quarter of the twelfth century.

7. Lamb.

Lambarde's *Archæionomia*, 1568: To the information already given ¹⁾ may be added the following from Lamb's preface:

Obtulit mihi superiori anno Laurentius Noelus diligentissimus investigator antiquitatis, mihiq̃ multa et iucunda consuetudine coniunctus, ac qui me (quicunque in hoc genere sim) effecit, priscas Anglorum leges, antiquissima Saxonum lingua et literis conscriptas, atque a me (quoniam ei tum erat trans mare eundum) ut latinas facerem ac peruulgarem vehementer flagitavit Jam vero ne quis domi nostræ has natas esse leges arbitretur, plane suscipio atque profiteor magna fide et religione ex vetustissimis (ut quæ ante quingentos annos, uti coniectura autumo, saxonice depicta sunt literis) exemplaribus fuisse desumptas, quorum pleraque in Reuerend. in Christo patris, atque optime de Antiquitate meriti, D. Matthei Cantuariensis Archiepiscopi Bibliotheca, alia aliorum in librarijs visenda supersunt.

This is all the direct information at hand towards settling the interesting question as to the sources of Lamb's text, which Whelock, Wilkins and Schmid I practically reprinted. L. was born in Kent in 1536, admitted to the Society of Lincoln's Inn in 1556. He studied under L. Nowell and for professional purposes took up the study of Saxon customs and jurisprudence. The Arch. was the first fruit of both legal and Saxon studies.²⁾ Considering the tremendous difficulties attendant upon the study of A.-S. at that time³⁾, it is not likely that at his age L.'s knowledge of the language was very great, and we are led to suppose that his edition was prepared in the absence of his teacher Nowell.

¹⁾ Cf. I, B.

²⁾ Cf. *Bibliotheca Typographica Britannica*, Vol. I, p. 493—509.

³⁾ Cf. *Grundriss I*, § 14, L'Isle's preface, over 50 years later.

As to the sources L. might have used, there is good ground for believing, independent of a comparison of his text, that he knew three of the four principal Mss. now in our possession. H Lamb. did not know at the time he edited the Arch. This is shown, according to Sch., by his comment on the text of *Æðelbirht* in that Ms., 'Harum autem exemplar haud scio an aliud usquam extet, ac propterea hunc librum magni facito quisquis es, qui eum nactus fueris. W. L. 1573 in gratiam antiquitatis'. Undoubtedly had Lamb. known of the existence of these Kentish Laws in 1568 he would have taken them up into his edition.¹⁾ L.'s remark in the preface points to E and B, the Corpus Mss., as Parker's Library for the most part went thither. B contains a number of pieces otherwise known only in Lamb.; other indications as to it are wanting. It does not contain all the laws in Lamb., though it has most of them and may well have had all when complete. There are some documents in it, however, that are not found in Lamb., which might have been expected if he knew B. E Lamb. undoubtedly was acquainted with, for Joscelin had used it a year or two before for his text of the Decalogue in the 'Testimonie', the only A.-S. print that L. could use as a pattern and whose publisher he also patronized. Joscelin's having glossed the G fragment of our code (from E) makes it likely that L. knew G also. That Lamb. used more than one Ms. is clearly indicated by the words above, 'ex vetustissimis exemplaribus fuisse desumptas'.

Furthermore, Lambarde undoubtedly was acquainted with Bromton's Chronicle²⁾, containing the ancient Latin version excepting 1—48 of the Introd. Probably he knew the Ve. for this part also. Br. was used for glossing in G. There is still a Ms. of it and one of the complete Ve. in Corpus Christi College. There are also Mss. of both among the Cotton Mss. It is not possible to suppose he could have remained ignorant of the existence of this Latin version. That he should not mention it is natural, as it would take from him the chief credit of his editorship, viz: his translation. We do not believe, either,

¹⁾ Cf. Lamb.'s remarks at end of his preface, reprinted by Wilkins.

²⁾ Cf. I., D and Lieb., I., B.

that L. could have made this translation from the A-S. unaided, and it is worth notice that he gives a paraphrase so loose that it might as well have been made from the Latin as from the Anglo-Saxon text. — In considering Lamb's readings we shall treat this subject farther.

B. Relation of the Mss. one to another.

1. Readings of the Mss.

At the head of the Mss. just described stands E, both for its age and because it gives altogether the most correct text of the code, copied conscientiously at a time when Æl's Laws were still of vital importance from an Ælfredian Ms. in his capital city. Probably the scribe reproduced the original Ms. as to paragraphs and externals altogether, but, striving simply to copy syllable by syllable his original, he was not exempted from clerical errors. Such appear occasionally: E. g. 1. Skipping *wisan budan* in 7 *ew hefigran wisan budan to healdanne*, Int. 49, 3; probably as he wrote *an* of *hefigran* his eye rested on *an* of *budan* and he proceeded from there. 2. Skipping one line from *zelæstanne*, Ælf. 1, 2, to the same word in the line below. Similar mistakes occur in Ælf. 30 and 39, 2. Other errors are clerical ones of small account. The text was meant for a good copy and it is such.

The value as a copy of each of the other Mss. is in proportion, in general, to its agreement with E and that again seems about in proportion to the antiquity of each Ms. The scribe of E in the second quarter of the tenth century had an Ælfredian original which he respected; as time went on Æl's laws lost their importance and in the later collective Mss., G and especially H and B, the scribes grow careless and a considerable personal element is introduced into the work of each.

Nearest to E stands Ms. Ot. There are very few established variant readings in the fragments that are left. These are:

Headings XXVII *monnes wif* (*wifmonnes* E G H); Ælf. 40 *monnes* conjectured to be wanting because there seems to be no room for it on the line (*monnes* EHB Lamb.); 42, 2 *cyrican þonne* is conjectured st

ðonne cyrican EH because an *e* is found where *n* ought to stand. Lamb. has *cyricean ðonne*. The clause, *oððe æt his swister borenre*, 42, 7, found in text of Ot., is above the line in E, yet certainly old. Further Ine 70, 1 *niliscas*, as HB Lamb. st. E *nilisc*, and 76, 2 *ætfealle* as HB Lamb. st. E *æfealle*, the former certainly correct.

There are many points of resemblance between the two Mss. Ot has in I *him mon* with E. against *man him* of GH, Ot keeps in 42, 7 *sweoster borenre* of E against *sw. æwum borenre* H Lamb., &c. As the Ms. of the Chronicle contained in the same vol. and written by the same hand as Ot, is a copy of the Chron. Text now found with E, one naturally considers the possibility that E and the Parker Chron. were then together, and that the copy of both texts was made shortly after 1001, to which date the Ot Chron. extends, probably in Winchester, possibly in Canterbury, where the entries in the Parker Chron. after 1001 were made. The evidence just collected is not sufficient to determine the question. The variations do not absolutely establish, it seems to us, the independence of Ot, still, considering how little of the Ms. remains, they must make its dependence very doubtful. Ot is, however, certainly closely allied to E, prob. copied from same Ms.

Bu also stands not very far from E. Its variants are:

Ine: 3, 2 vac. *his* before *hlaforðes* (*his* EHLamb); 5 *zæerne* (*zeierne* EHLamb); 5, 1 vac. *he* bef. *cirican* (*he* EHLamb); 6 *habbe* (*age* EHB Lamb); 6, 2 vac. *he* after *zēbete* (*he* EHB Lamb); 6, 3 *mon* (*ðonne* EHB Lamb), *bure* (*zēbure* EHLamb); 6, 5 *bið on zēbeorscipe zeciden* (*on zēbeorscipe hie zeciden* EHLamb); 8 *hine* (*him* EHLamb); *mid XXX* (vac. *mid* EHLamb); 12 *monna liese* (*mon aliese* EHLamb); 13, 1 vac. *oð* before *VII* (*oð* EHLamb); 13, 1 with 14 makes LVIII (with H, against EB); 14 *he* (*se* EHLamb); 15, 2 with 16 makes LX (with H, against EB); 16 *he* (*se* EHLamb); 20 *lesanne* (*aliesanne* EHLamb); 21 *ðeofðe* (*ðeof* EHLamb); 21, 1 vac. *ðonne* before *dirneð* (*ðonne* EHLamb).

It will be seen that these variations are, excepting perhaps the change in division of chapters, of very slight importance. Only two are shared by any other text and it is not difficult to attribute all directly to the scribe of Bu and to suppose for Bu an original very closely in agreement with E and its original. Bu itself is to be regarded, like Ot, as a younger representative of the group of which an Ælfredian Ms. is the source and E the oldest member.

G is younger and departs more from E:

Headings I *man him H (him mon EOt)*, LIII *man rihtes (he him ryhtes E, hine man ryhtes H)*, LXXIX *he þæt mōle aðe (he mōle aðe E, he mōtt þæt mid aðe H)*, CVI *ceace H (ceape E)*. Introd. 11, 3 *habbe sylf (self hæbbe EH Lamb)*, 11, 6 *æt ðas temples dura (to ðære dura þæs temples EH Lamb)*, 12, 2 *hie faran freo Lamb. (vac. faran EH)*, 13, 1 *hyne ymbe ne sierede Lamb (hine ne ymbseyrede E, him ne syrwde ymbe H)*, 17, 1 *zyf ðonne he idæges sie dead (zif he ðonne sie idæges dead E Lamb, zif he þonne byþ idæges dead H)*, 18 *zetæcan Lamb (zereccen EH)*, 20, 1 *sylfe (ilce EH Lamb)*, 21, 1 *twam dagum oððe þrim ær (twam dagum ær oððe ðrim EH Lamb)*, *nyste zif he hit ðonne* inserted, the clause *se hlaforð bið unscyldig* being taken to belong to this sentence, Lamb (vac., said clause belongs to preceding sentence EH), 21, 2 *sy he þæs ylecan domes wyrðe (ðæs ilcan domes sie he wyrðe EH Lamb)*, 21, 3 *se oxa sie Lamb. (vac. sie E, sy se oxa H)*, 28, 1 *gð lādige (geladige EH Lamb)*, 34 *sceaððan ze hie nuhwer nē ne deriað (sceððað ze ne hie nower deriað E, scyppað 7 ne hy nower deriað H, sceapþe ze hi ne hi na hwær deriað Lamb)*, 43 *swiðe rihte 7 swiðe emne Lamb (swiðe emne E, swiþe ryhtne dom H)*, 49, 3 *hefigran wisan budan H Lamb (vac. wisan budan E)*, *us ða eallum zelicode (us eallum zelicode ða E Lamb, us eallum ða zelicode þa H)*, 49, 5 *þæt is H (vac. is E Lamb)*. — Less important: Insertions: 15 *hym*, 23, 1 *he*, 25, 2 *he*, 28, 1 *ðu H*, 28, 2 *he H*, 41 *on Lamb*; Omissions: 15 *he H*, 15, 1 *his*, 21, 1 *inne*, 24 *wið*, 25 *na*, 28, 2 *hit*, 34 *þa*, 35 *swa H Lamb*, 40 *þæs*, 49, 2 *ðonne, to*; Substitutions: 12 *he (hio)*, 19 *for Lamb (wið)*, 31 *se H Lamb (he)*, 33 *þa (no)*, 36 *oððe H (and)*, 47 *ðone (hine)*, 49, 5 *is (wæs)*; Slight Changes: VII *cyrlicena (-can)*, XXXVIII *fæhðum H (-ðe)*, LVI *þeofe (-fum)*, CIII *cu (cuus)*, CV *sceatum H (-le)*, CXII *siðcundes (ges-)*, 3, 1 *ðone (þam)*, 3, 2 *sæ H (sæs)*, 8 *zebeþe (bete)*, 21, 8 *ðeonne H Lamb (ðeowmennen)*, 22 *delfe (ad-)*, 30 *galdorcraeft Lamb (-tigan)*, 35 *gesylle Lamb (selle)*, 49, 3 *rihton (zer-)*; Mistakes: IV *burh H (borç)*, CXVIII *þeowfealh (þeow-)*, 49, 3 *wyrcað (wyscað)*; Blunders: LXVI *gestalige (geneat st.)*, CI *mannes tale (stale)*, 10 *wyce (wyrç)*, 29, 1 *witoman weotuman*, 32 *of (ofer)*, 49, 5 *ðeow (ðe eow)*.

Of all these variations only that in 21, 1 has any effect on the sense and it is easy to see how that might arise. The many agreements of Lamb with G probably indicate only the use of G by Lambarde. Only a few are supported by H. The variations are not sufficient to put G out of the class to which the beforementioned Mss. belong. The scribe of G had an original not much different, we should judge, from E. He was somewhat careless, writing rather fast, and introduced often words of his own, still oftener a new word-order.

The two remaining younger Mss., H and B, bear some

outward marks of having had a common original. H gives as CXXI in the headings *Be blaserum 7 be mordslihtum* and joins it, with this number, to the end of the code, leaving then a space of two lines before proceeding to the next piece in the collection. The chapter headings preceding B are lost and it has no numbers, but this same piece follows immediately the laws in B also. This would indicate that both H and B were copied from a Ms. where this piece followed Æ's code. As this could only be the result of chance, it could hardly occur in many Mss., so that a common original for H and B would be expected. There are, however, important points of difference between these two Mss. H against EOtGB puts XXIII (25) after the next three closely related chapters as XXVI. This change is undoubtedly on account of the related subject of the two chapters thus brought together. Lamb. for the same reason brings up 26 and puts it after XXIII (25); Thorpe-Schmid do the same by both XXVII and XXVIII (26, 27, 28). This change is entirely in accord with the spirit of the scribe of H towards the text, for we note often deliberate changes in phraseology and word order, whereas the sense of the whole is as a rule kept well in mind. B's peculiarities are largely omissions through carelessness, less regard for the sense being shown. Such being the case, this change in H, considerable as it is, may be, with other lesser alterations¹⁾, laid to the account of the scribe of H as well as to any predecessor. The change must have been made deliberately by some scribe, the other is beyond peradventure the original reading. B's principal differences from H, being unsupported as a rule by any other Ms., may be laid to the door of B's scribe. In this way a belief in a common original for H and B is not impossible. At all events these two Mss. stand somewhat apart from EOtBuG. Lists of variants of these Mss. from E would be far too bulky to be useful. The arrangement of the text furnishes every facility for making comparison. Important additions to our knowledge of the text are made by neither of these Mss. They

¹⁾ See under Bu two other changes in Ine 13, 1 and 15, 2. Often H supports E against B, often however they agree against E.

correct occas. clerical errors in E, but serve on the whole only to show the excellence of that text.

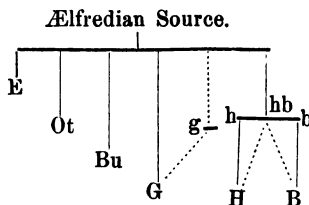
The later chapter headings of B would require a separate consideration if they deserved any at all. They vary greatly from all other Mss. and are therefore given parallel to those of E. They are not valuable, however, except to show how far a late version may depart from the original form; they are clearly the result of the arbitrary will of the scribe.

The text of Lambarde is, as already indicated¹⁾, in all probability not from any one Ms. Lamb. and Vetus Versio have in common, however, certain variations from all Mss. that would at first sight indicate that he and the maker of Ve. had related and peculiar Mss. before them. Lamb-Ve. give two additions to the Decalogue, restoring parts in 3 (*ðu 7 ðin sunu 7 ðine dohter 7 ðin ðeowe 7 ðine wylne 7 ðin weorcnyten 7 se cuma þe biþ binnan ðinan durum* Lamb) and 8 (*wiþ ðinum nehstan* Lamb) according to the Vulgate. In Intr. 15 7 *hit onbestæled sie mæge* is omitted and in Intr. 49, 2 *þæt him belampe* substituted for *þæt him ne speow* to agree with the Vulg. Lamb-Ve. concur also in omitting the last three sections of XVI (18, 1; 18, 2; 18, 3), and Lamb with Bromton, the worst source of Ve. readings, puts a clause that belongs at the end of 18, 1 at the end of XI (10) against all Mss. The supposition that these agreements of Lamb and Ve. spring from a common A.-S. source is, nevertheless, to be definitely rejected. In the Ve. the variations in the Introduction are simply the result of adopting Vulgate readings instead of translating the A.-S., a course which the translator adopts very often where Lamb. does not agree with him. The omission in XVI is on account of the subject-matter of the parts omitted and is also to be ascribed to the translator. Lamb's additions and alteration present an interesting question. Ælfredian they could not possibly be. Æ. would not have translated *ancilla* by *wylne*, but by *þeow mennen*, *þeowenne* or *mennen*, nor *jumentum* by *weorcnyten*, but by *neat* or *nyten*, nor *advena* by *cuma*, but by *utancumene* or *eiðeodige*. *Þæt him belampe*, short as it is, is an unfortunate substitution for *þæt him ne speow*, as the conjunction

¹⁾ See p. 17.

is changed to a relative without any antecedent. It may be that these bits of Anglo-Saxon appeared as very late glosses on some A.-S. Ms. We are not however inclined to date them earlier than the third quarter of the 16th century. Joscelin's Dictionary¹⁾, or his collections for it, seems to us their most probable source. The same wish to agree with the Vulgate and Ve. did not cause L. to translate any difficult passages. In agreement with Bromton, however, he made undoubtedly the other changes mentioned. Many other changes in headings are undoubtedly arbitrary alterations of Lamb. accdg. to his view of the requirements of each case. These variations aside, Lamb. follows, where G remains, that Ms. and E pretty closely. In the other parts his readings are generally those of E, though in certain places, as IX—XIII his text shows a remarkable resemblance to B. He has a number of its late glosses and many chapter headings like those found only in the late collection on the margins of B. Perhaps L. used G as it now stands, with the glosses and giving all that was to be found in E except its chapter headings. Whether he used B or not, it can hardly be doubted that he possessed some lost collective Ms. too, which he used more, perhaps, in other parts of his collection, where so many Mss. as exist of our code were not at hand. But his chief variations are probably of unworthy origin, his text is composite, and were the supposed lost Ms. found we could not expect from it any addition to our knowledge of the text of this Code.

Conclusion as to the Text. Our investigation gives the following scheme of Mss., from which Lamb and Ve. must be omitted:



In printing we accordingly give E and B, as most widely separated, in full, parallel to each other. Ot, B and G are given

¹⁾ See Grundriss I § 8.

as variants from E. H is given variant from B, where B exists; otherwise it is printed in full or — where the space is occupied by the Vulgate Extracts — given variant from E. How much of the text really remains in the mutilated fragments Ot and Bu, and the consequent value of their variants, will be seen by reference to Appendices A and B, where they appear in full, page for page and line for line, with the parts wanting supplied in italics from E. Peculiar readings of Lamb-Ve. are noted in the variants, also readings of Lamb are adduced where they agree with one Ms. against the others in some remarkable variation.

2. Phonological Complexion of the Mss.

Our principal Ms., E, has already received the grammatical treatment it so well deserves from Priese.¹⁾ He gives it detailed consideration and in reply to Schmid's statement that it was Mercian, shows it to be a West-Saxon monument. Though written two centuries later, the Mss. H and B each deserve a similar detailed consideration. As each is but part of a large collection, such a treatment should include many other monuments besides ours, and even were this not the case, the work is beyond the limits of our space. Both show, as will be seen, many late forms, but B seems to be more uniform in this respect, whereas H retains in many places the forms of its original, which in others it supplants with more modern forms. For the fragments Ot Bu G we have attempted a classification of the phonological variants from E, which, in view of the existence of Priese's work, will sufficiently illustrate the phonological peculiarities of each. In the case of the latest and longest of these, G, it must, however, be admitted that the results are rather cumbrous. This fragment, moreover, like H and B, is a part of a collection; indeed only Bu stands utterly alone.

The language of Ot is in general that of E. Very few of the variations possess great significance.²⁾ They are:

¹⁾ See I E. Unfortunately the untrustworthy character of Thorpe's text detracts at times from the value of Priese's work.

²⁾ In parenthesis are forms that occur elsewhere in E.

a for *æ*, *magum* 42, 1 end, cf. Priesse 6.

o for *a* (*o*), *londes* Ine 67, cf. Pr. 14.

e for *æ* (*e*, *a*), *ofslegenum* X; *æ* for *e* (*æ*) *cwæðað* 42, 5.

eo for *i*, *sweoster* 42, 7, cf. Pr. 15.

io for *eo* (*io*), *hiora* XVII.

i for *y*, *twyhindum* XXIV.

y for *i*, *zyf* 42, 1, 3, 4; Ine 67; *forzyfen* 42, 7; *forzyfene* 43.

ȳ for *ī*, *slyte* XXI.

y for *ie* (*i*, *y* I uml. of *eo*), *cyrlicses* XXXII. Pr. 18.

ȳ for *īe* (*ē* I uml. of *ēa*), *tymb* Ine 75, *lyfað* 42, 6.

īe, *ī* (I-uml. *ēo*), *gestryndon* 41, *flys* Ine 69. Pr. 18.

Unaccented: *eo* for *e*, *o*, *bisceopes* 40, 41, *bisceopum* XV.

Doubled-Cons.: *ð*: *oððera* XLIII, *l*: *forstollenne* Ine 75.

Also *borh* (*borȝ*) IV, *cynȳges* (*cynȳges*) VIII, *dumbra* (*dumbera*) XIV.

A similar examination of Bu's variants yields more of interest. This Ms., in direct contradiction of G, shows the tendency to make *y* (umlaut of *u* as well as of *ea*, *eo*) give place to *i* and very often to *e*. Still it displaces *i* with *y* a few times. Perhaps we are to argue that *i* and *y* are not distinguished and the closed *e* and *i* had likewise become confused. The tendency here shown is remarkably strong. The variations are as follows (the numerals refer to Ine):

a for *æ*, *habbe* 5, 22, (also 6 for *aze*) optative.

æ for *a* (*æ*), *nræce* 9. Priesse 1, p. 7.

e (*æ*, *a*), *ofslægengan* 21 end.

æ for *â* (*æ*), *þæm* 1; 2; 21, 1 twice.

e, *i* for *y* (I uml. of *u*), *ofspereð* 17, *scildig* 4, 11, *kinig* 23, *kininȳges* 6; 15, 2; *unsingian* 21, 1. Pr. 18.

y, *ie* (*i*, I uml. of *ea* br. of *a*), *ofslehð* (E *ofslihð*) 16, *gederneð* 17, *dirneð* 21, 1 (cf. below *nyhtum*).

y, *ie* (*i*, I uml. of *eo* br. of *e*), *werce* 3, *forwerce* 5, 1, *sixtiȳ* 19, *cirlisc* 18.

e, *i*, *y* for *y*, *e*, *i* (after palatal), *geld* (verb) 22, *anzeldes* 22, *anzelde* 22. — *zafołȳldan* 6, 3. — *forȳylde* 9.

i for *ie*, *y* (*i*), *ȳeirne* 5, 1, *betizen* 15, (cf. *betȳȳzen* 18).

ē for *ȳ* (I uml. of *ū*) *ȳecepān* 16, *remeð* 21, 1 (cf. *ȳecȳpān* 21).

ī for *īe* (*ī*, *ȳ*, I uml. of *ēo*), *hrime* 20.

y for *i* (*y*, *ie*, pal. uml. of *ea*, br. of *a*?), *nyhtum* 2, 8. Pr. 19.

ȳ for *ī* (old), *swȳcne* 15, 2. Pr. 8.

eo for *ie* (I uml. of *eo*), *peofðe* 7, 2, *weorðe* 8.

ie for *eo* (I uml. to *ie*), *wierðeð* 21, 1.

ie for *ī*, *sien* 4.

o for *eo*, *forcund* 20; *eo* for *o*, *ȳefeohthan* 6, 4.

eo for *io* (*eo*), *freoh* 3.

eo for io (êo), beon 7, 2.
 yō for io (êo), byon 15, 1.

In Unaccented Syllables:

an for um, middan 6, 4.
 æ for e, callæs 7, 1. Gen. sing.
 e for a, mæges (nom. pl.) 21, 1; 23, hereteame 15, healden 1, swerigen 19.
 a for e, zefeohtan 6, 4.
 o for a, zefullod (E zefulwad) 2, buton 2; 3, 2; 20.
 e, biscope 13.
 um for on, nyhtum 8.
 y for e, zewitnysse 3, 1; 7, 1 (cf. zewilnesse 13).

Also wed (dd) 8, bebycge (ȝȝ) 11, manna (n) 22, zehealdenne (n) 1, weregilde (werȝ) 15, husȝenȝa (ȝea) 19, berȝan (ȝean) 22, wisie (ȝe) 5, swerigen (ian) 19 and ȝegildanum (ȝegildan) 16.

Ms. G shows a great mass of variations. The principal characteristic of the Ms. is the introduction of *y* for a great number of sounds of every sort of origin. This is in contrast to Bu. G is fairly consistent in its introduction of new forms and exhibits, we take it, the West-Saxon conditions or tendencies at its time. Examples follow ¹⁾:

a for æ, hæbbe 11, 3; 12, 4; habben LXXXII, habbon 23.
 æ (a), stal XC, ofslazen 21, 1; ofslazenes LXV, ofslazenum X.
 ea (br. of a), ȝaldorcwæft 30.
 a, æ for o (before nasal), man (always), land (always), handa, zefanzenum LVI, ȝange CXIII, anfôn 30, anfenȝe XII (cf. onfenȝe XVI), andsæce LXXXV, naman (always), fram (always), ȝesamnodan 49, 3; ðan, mænige 49, 1; þænne LXXX; 28, 3; ðæne (eum) 45, (still moniȝfealdum 49, 3).
 æ for e (æ), ældeodiȝ always; for a (æ), stæfe 16.
 e, ê for æ, ê hwet 24, 1, seȝe 8, restedwȝ 3, befestað XVIII, stele 28, slepe 29.
 e for y, brece LXXXIX; ê for ie (I uml. of êo), flese CXIII.
 i for io (U uml. of i), wituma 12, 4; for u, awiht 26.
 i, y for y, e, i, ie (after pal) anȝilde(e) C, werȝild CXVI, deofolȝyld 49, 5; ȝylde, ȝyf, aȝyfe 12, 3; ȝyft LXXV.
 i for y (I uml. of u), bieȝe LXXXV, zebieȝe 11, 1, bebieȝað LV, ðurhðirtȝe 11, 6; drihten 1.
 y (ie, pal uml. of eo, ea), riht LXXXII, rihtes LII, LIII, unrihte 9, rihte 21, 1, rihton 49, 3; slȝhte XVII, XXIV.

¹⁾ Arabic numerals refer to Introd. Examples without reference occur often. Forms in brackets occur in E or in W.-Sax. generally.

y for old *e*, Goth. *i*, *swyltan* 14, *lybbe* 17.

Teut. *i*, *byst*, *fryþe*, *fryðstowa* 13, 1, *ys*, *hys*, *hyt*, *hyne*, *hym*, *syððan*, *syndan*.

i (*y*) (borrowed words) *cyrice*, *eȝypta* 1, 1.

eo, *io* (O uml. of *i*), *clypiȝen* 48, *hyra* (cf. *hira*).

e, *brynȝe* 11, 6; *ȝecyrdon* 49, 1; *æwyrðlan*, *ȝewyrde*.

eo, *e*, *i*, *wyrcum* XLVII, *swylce* (cf. *swilce* 11, 2), *ȝehwylces* C, *ylcan*.
ie, (I uml. of *eo*), *hyre* 11, 4; 29.

e (I uml. of *a*), *syllē* 19, *ȝesyllē* 21, 3; *wyrȝe* 15, 1.

ie (*i*, *y* I uml. of *ea*), *fyrð* XCV, *wylȝsces* LXXVI, *dyrnum* XCVI, *forhwyrðdon* (*e*) 49, 3.

ie, *i*, (*y* I uml. of *eo*), *cyrliſces*, *cyrliſcre* XII; etc.

ȝ for *ē* (I uml. of *ō*), *ȝehyne* 35.

ie (I uml. of *ēa*), *cypmanna* LXIX, *cypmannum*, *nylena* XXII, *un-alyfedes* XCIII.

ē (I uml. of *ēa*), *alyfe* 12, 3; *nydes* 13, 1; *ȝymealasnesse* XXXIII.

ie (I uml. of *ēo*), *frynd* 28, *flyman* LXXIV, *ȝehyre* 34, 1; *ȝehyranne* 40, *ȝetrywe* 28, 3; *ðyfðe* LXXXI.

ie for *ē*, *nietene* 31, *niedpearf* 49, 5; cf. above.

u for *y* (I uml. of *u*), *ȝemune* 3.

y for *u* (uml. to *y*), *becȝme* 42, *utancymenan* 47.

eo for *io* (*eo*), *seofodan* 3, *seo*, *heo*, *feoh* 17, *freoh* 11, 1; *freonne* 15.

ye for *ie* (*e*), *nyehstan* 13, 2; *eo* for *ie* (I uml. of *eo*) *ȝeornnesse* 13, 2.

In Unaccented Syllables:

a for *e*, *findan* 21, 1, *bebiȝan* 23, *fryðstowa* 13, 1, *leasunga* XXIX; etc.
o (*a*), *butan* (always), *ȝemettan* LXIV, *sendan* 49, 3; *ȝesamnodan* 49, 3; *syndan* 49, *ofworpad* 21, 3.

æ for *es* (*æ*), *nihtæ* CXVII; *y* for *i*, *wylȝsces* LXXXVI, *scyldȝ* 17.

e for *a*, *orȝeapunȝe* 11, 1; *utȝanȝen* 16, *healdenne* 49, 5; etc.

eo for *o*, *bisȝeopum* XV. Prob. *e* only indicates pronounce. 'sch.'

o for *a*, *ȝesamhiwon* LXXXII, for *e*, *habbon* 23.

u for *o*, *unbeneddude* 29, for *e*, *dearnunga* LXXI, 6.

ea for *a*, *sunea* 12, 3; *ȝewitnessea* 8; *a* for *ea*, *wyrcað* 3, 1; *bereccan* 15.

an for *um*, *minan* 13, 2.

e dropped, *wæpn* XVII, *dumbra* XIV, *niedhæmde* XXIII, XXVII.

Also *ȝeahsodon* (*asc*) 49, 3, *spæce* (*spræce*) 41, *æðenum* (*hæð*) 49, 2; *tihlan* (*hil*) CXV, *werfæhte* (*hðe*) XCVIII, *ceaste* (*cease*) 18, *wiste* (*ss*) 23, 1; *sceatum* (*tt*) XLVIII, *bicȝe* (*ccȝ*) LXXV, etc.

The text of Lamb. offers little of interest phonologically: *e* is frequently dropped from the end of a word, as in Ms. B, after *ȝ*; in general however it shows nothing new as against the other Mss. Here again there are indications of a composite text. To a great extent the forms coincide with E, still there are many, especially in certain places, as IX seq., that greatly

resemble B. In the part remaining of G variations from E are apt to coincide with G. Where Lamb resembles B, the variants from E are quite numerous, otherwise they are not great in number nor in importance. This being the case, none are adopted in the variant collections. Were their interest greater than it is, so old an edition would be but poor authority for phonological variants.

III. LITERARY OBSERVATIONS.

Chapter I.

THE COMPOSITION OF ÆLFRED'S CODE.

1. The purpose of this chapter is to examine Æl's code, to determine its sources, so far as possible in a purely literary consideration, and to explain its construction. We shall in so doing take occasion to compare translations and adaptations with their originals and to discuss any other literary questions of import. A word at the outset as to division of our monument. Former editions separate it into three parts: 1. Introduction¹); 2. Laws of Ælfred; 3. Laws of Ine. The Mss. recognize none of these divisions. The best authority proceeds without paragraphing to the end of 48, makes a second paragraph of 49 to 49, 5, a third, which is numbered I, of 49, 6 to 49, 8, and a fourth, unnumbered, of 49, 9 and 10. This last is the Introduction Proper to the Laws in distinction from the Historical Introduction preceding it. With II begin the actual Laws and the division into numbered paragraphs, or chapters, continues without any further distinction to the end of the document. Our code has suffered in the past from a too zealous separation into parts, and we prefer as far as possible to regard it as a whole, though gathered from different sources. Yet, as for convenience of reference we retain the threefold division with its three sets of numbers, so merely for the purposes of our present consideration we may make the following division:

1. The Historical Introduction; To Introd. 49, 8.

¹) Less aptly termed Ecclesiastical Laws and so referred to by Bosw.-Toller Dicty.

2. The Introduction Proper; 49, 9 and 10.
3. The Miscellaneous Laws; II(1)—XXXIX (43).
4. The Code concerning Bodily Injuries, XL(44)—XLIII (77).
5. The Laws called Ine's, XLIV (Ine Introd.) to End.¹⁾

The first part is partly translation — from the Mosaic Law and the Letter of the Apostles from Jerusalem — and partly original; it will require two sections for its consideration, the original parts being best considered first. Our remarks on 2. and 3. can be given in one section.

2. The Original Parts of the Historical Introduction: Its Construction; Comments.

Having completed his translation from the Mosaic Law, Æ. says (49): *Pis sindan ða domas þe se ælmihtega god self sprecende wæs to moyse 7 him bebed to healdanne*. This is Æ.'s statement of his sufficient reason for putting these laws before his people, for, unlike all others, they were given by God himself and He ordered their fulfilment.²⁾ Æ. proceeds, adapting incidentally Matt. V, 17,³⁾ *7 siððan se ancenneda dryhtnes sunu ure god þæt is hælend crist on middangeard cwom, he cwæð ðæt he ne come no ðas bebodu to breccanne ne to forbeodanne, ac mid eallum godum to ecanne*, pointing out that these Mosaic Laws are not abrogated by Christ under the new dispensation, for He desired but to augment them with all good (laws).⁴⁾ Then comes the second important point, *7 mildheortnesse 7 eaðmodnesse he lærde*: this prepares the way for the rendering of the Apostolic letter and indicates at the same time the reason for giving it, viz: that, having introduced the harsh injunctions of the Mosaic Law ('an eye for an eye, a tooth for a tooth'), Æ. avoids a too literal interpretation of them and modifies very greatly their effect by adding to represent the dispensation of Christ the peculiarly mild and encouraging precepts of the Apostolic

¹⁾ Strictly speaking 5. should be subdivided into (1) Ine's Introd. XLIV, and (2) Ine's Laws.

²⁾ *Self* shows this to be Æ.'s intent.

³⁾ *Nolite putare quoniam veni solvere legem, ant prophetas: non veni solvere, sed adimplere. Vulg.*

⁴⁾ Better than Schmid, 'mit allem Guten zu vermehren'.

Letter. The two extracts together present a fairly complete view of Biblical teaching in these particulars.

Immediately upon the Letter follows the paragraph (49, 6—8) numbered I and designated in the chapter headings as '*Be ðon þæt mon ne scyle oþrum deman buton swa he wille þæt him mon deme*'. Only the first three sentences of this paragraph, however, are at all in the form of an injunction. This injunction, while recalling to mind Matt. VII, 1, 2,¹⁾ is closely connected with the final clause of the Apostolic letter (*7 þæt ge willen þæt oðre men eow ne don, ne doð ge ðæt oþrum monnum*); it is in a manner deduced from it: *Seðence he þæt he nanum men ne deme þæt he nolde ðæt he him demde, gif he ðone dōm ofer hine sohte*. It is as well the spirit of all law and justice, the underlying principle of all lawgiving: *Of ðissum anum dome mon mæg seðencean*, says Ælfred, *þæt he æghwælcne on ryht zedemeð. Ne ðearf he nanra domboca oþerra*.

The author does not now pass, as he well might, at once to his own laws, or to the introduction to them; he wishes to construct, rather than imagine, the bridge that shall connect the Apostolic injunctions with his own ordinances, just as he had carefully joined the former to the Mosaic commandments. His next sentence joins on closely to the introductory sentences of the Letter. There we read: *ða æfter his ðrowunze ær þam þe his apostolas tofarene wæron zeond ealle eorðan to læranne, 7 þa ziet ða hie ætgædere wæron, monega hæðena ðeoda hie to gode zecerdon*. The part now reached begins: *Siððan ðæt þa zelamp þæt monega ðeoda cristes zeleafan onfenzon*; it continues: *þa wurdon monega seonoðas zeond ealne middangeard zegaderode, 7 eac swa zeond anzelcyn, siððan hie cristes zeleafan onfenzon, halegra biscepa 7 éac oðerra zedunzenra witena*. Thus Æ. conducts the reader from the Apostles and their times to England and the middle ages. With a renewed reference to the compassion taught by Christ, he relates how these synods resolved that secular lords might accept a money fine for a first offense, except only in the case of betrayal of a lord²⁾,

¹⁾ Nolite iudicare, ut non iudicemini. In quo enim iudicio iudicaveritis, iudicabimini. Vulg.

²⁾ We note here Æ.'s severity where the kingly power might be touched. Cf. Pauli (I, E) pp. 168 seqq.

against which he proceeds on scriptural grounds to deliver a severe denunciation, closing with an imitation, the sense being however quite new, of Matt. XXII, 37, 39.¹⁾ Relating then how fines for various offenses were fixed and recorded in the synod-books, he is ready to proceed to the Introduction Proper to his own Laws, which names these books as the first source of his compilation.

Good as are the grounds that Æ. alleges for introducing his Biblical extracts, and apt as the historical account is, that connects and follows them, an underlying reason is still, we think, left to be inferred. Only in the Preface to the Pastoral Care does Æ. express himself on this head. The same general purpose, however, undoubtedly inspires both undertakings. Æ. knew the ignorance of his advisers in the state to be more lamentable than that of his clergy. As he gave Gregory's great work to the latter for their instruction, so, on the occasion of formulating a code of laws, he opened to his statesmen and people in the tongue they could understand the ancient commandments of God through Moses and the recommendations of the Holy Apostles for the Christian conduct of life. We may note here at the outset that a very different idea of his Law-book occupied Æ.'s mind from that of a mere publication of a certain number of his ordinances for the use of his kingdom.

3. Comparison of Ælfred's Translations with the Vulgate: The Decalogue; The Rest of the Mosaic Law, with Lists of Omissions, Alterations, Augmentations; The Apostolic Letter; Summary.

There is, as might be expected, no original from which Æ.'s extracts from the Bible could have been taken as they stand. There are numerous changes and omissions due to Æ. himself. The Text of Exodus, however, that he altered for his purposes, was the Vulgate, not any Pre-Hieronymic text. This is shown not only by comparison with the existing Pre-Hieronymic fragments, but also by Ælfred's agreement with the Vulgate against the Septuagint (the original of all Pre-Hieronymic texts), wherever they interpret the Hebrew differently. The version of the

¹⁾ Diliges Dominum Deum tuum ex toto corde tuo . . . Diliges proximum tuum, sicut teipsum. Vulg. Note that all the references point to studies in Matthew.

Epistle from Jerusalem is also undoubtedly taken from the Vulgate.¹⁾ That Æ. used a text altogether corresponding to the present Vulgate — the Clementine — is certainly not to be supposed, but his translation is far too free to allow of determining the peculiar readings of the Ms. before him, except in rare cases; we make our comparisons accordingly with the standard Vulgate text, which unquestionably answers well the purpose.

The Decalogue as given by Æ. must be omitted from any comparison of his adaptation with the original to determine its fidelity. In his chief deviation, viz: the omission of the entire Second and part of the Fourth and Tenth commandments, Æ. but conforms to the custom of the Church. Lambarde and other editors have pointed to the second Nicene council as the reason for the omission of the Second, though it is worth notice that Æ. adds as the tenth Chap. XX, v. 23, of similar purpose, but of much narrower scope.²⁾ Just why he does this is hard to see. As to the commandments in the middle ages, we may quote from the Speaker's Commentary, ed. Cook, p. 337. "In those copies of the commandments which have been used in different branches of the church for the instruction of its members, the form has almost always been more or less abbreviated of a part or the whole of those which are most expanded in Exodus and Deuteronomy, namely the Second, Third, Fourth, Fifth, and Tenth." Just how much of Æ.'s paraphrase is original and how far he is following an older Latin paraphrase is an interesting question, but no evidence has been found upon it.³⁾ In most cases Æ. merely omits parts, following otherwise the Vulgate text closely. He has, however, two renderings that are unknown to any Bible text:

(1) The change of *Dominus* (always transl. *Dryhten*) to *Crist* in "*Crist geworhte heofonas etc.*", the proper translation being retained just below in *7 forðon dryhten hine gehalgode*. This can not, well authenticated as the reading is, be attributed to the mistake of a scribe. In all probability it is Æ.'s own

¹⁾ For the above information we are indebted to Dr. F. J. A. Hort.

²⁾ That is, in Æ.'s view. To the Hebrew the two meant quite the same.

³⁾ Dr. Hort kindly examined into this matter.

deliberate rendering. That such a rendering would be quite possible is shown, for example, by the A.-S. poem "Crist", where Christ, rising at the last day to deliver his judgment, describes how he created the world, going on later to relate his own birth and ministry upon earth.¹⁾ As the word "*Dominus*" is so often used in the New Testament for Christ, it is easy to see how confusion could creep in, and how in this case Æ. should translate the single word — there is no "*Deus*" with it here — by *Crist* instead of *Dryhten*.

(2) In the fifth commandment the last clause, "*quam Dominus Deus tuus dabit tibi*", is put immediately after the first, changing the sense altogether, i. e. *Ara ðinum fæder 7 þinre medder, ða þe dryhten sealde*. This change is probably due to the ambiguity of *terra*. In Exodus it means "land" (limited portion of earth), but Æ. took it to mean the earth generally. This interpretation left no room for a reference of the following words to "*terram*" and so we may suppose that Æ. assumed them to refer to the first clause.²⁾ The A.-S. relative would be the same, and the Latin relative, if not before him in some unrecognisable abbreviation, would not trouble Ælfred, especially as it agrees perfectly with the "*tuam*" at the end of the first clause. Æ. accordingly transposed the clauses to make the supposed reference clear.

The adaptation from the rest of the Mosaic Law may be subjected to a detailed examination to show Æ.'s relation to his original. It extends from Exodus XXI, v. 1 to XXIII, v. 13. The entire 36 verses of Chap. XXI are taken with deviations only in an occasional clause or expression. In XXII Æ. becomes more free, omitting part of 6 and of 7, changing 8, omitting 9, omitting part and changing the order of the clauses of 10 and 11, omitting 12—15, then altering a good deal in 16—29, omitting last part of 29 and all 30, but taking the last verse 31. In Chap. XXIII Æ. omits vv. 3 and 5, translating the rest to v. 9 very freely; omits then all to the last part of v. 13, with which he closes his adaptation from Exodus. From the subjoined lists of his deviations from his original, it

¹⁾ Cf. Grein, *Bibl. d. Ags. Poesie*, Vol. I (line 1380 seqq).

²⁾ Dr. Hort offers this explanation.

will be seen that he handled his Biblical source with considerable freedom, judiciously adapting rather than slavishly rendering it. He seems almost invariably master of the sense and one or two mistakes go rather to prove his independence. His work throughout bears high testimony to his excellent judgment in the use of his original. Following are the deviations:

Omissions: Clauses not necessary to the sense are often omitted: XXI, 4, 6, 18—19 (with good discernment here, the end of 19 being brought cleverly into more intelligible expression), 22, 30; XXII, 4, 5, 24. Other omissions affecting the sense are to be noted: XXI, 9—10, *juxta morem filiarum faciet illi. Quod si alteram ei acceperit*, 22 end, giving husband right to fix penalty for injury to his wife; XXII, 8, *Æ.* carefully omits *applicabitur ad deos* and also 9 where *deos* occurs again, (cf. XXII, 20, *diis*, to *god zeldum*; *diis*, to *ðinne dryhten*.) 12—15 entire, concerning goods committed to another's charge, 29—31 all omitted except first and last clauses. Such a commandment as *primogenitum filiorum tuorum dabis mihi, viri sancti eritis mihi* *Æ.* could hardly be expected to adopt. XXIII, 3, *Pauperis quoque non misereberis in iudicio* is rejected with evident reason. Most interesting as showing at once *Æ.*'s practical purpose and throwing light upon the spirit of his time is the omission of 5, *Si videris asinum odientis te iacere sub onere, non pertransibis, sed sublevabis cum eo*. We are reminded here of the difficulties caused the Heliand poet not long before *Æ.*'s day by many Christian conceptions and injunctions. At the end of 9 the repeated reference to the bondage is omitted, also 10—12 conc. tilling soil, keeping sabbath-day, etc. The choice of 13 to close the extract is evidently for its repetition of the first commandment, with which *Æ.* opens.

Alterations: XXI, 2, *servum Hebraeum* to *cristenne peow*; 8 is rearranged considerably, *populo autem alieno vendendi non habebit potestatem* is transl. first, then that part of the verse preceding it, *populo alieno* being a second time given; 20—21, order of the given instances altered; 30, *quidquid fuerit postulat* changed to *swa ðæt witan to ryhte finden*; XXII, 1, *quinque boves* to *twezen*, 3 end placed after v. 1 for the sake of clearness, 7—8, for *furto ablata fuerint, si invenitur fur* *Æ.* inserts *zif he hit self stæle*, for *si latet fur, zif he nyste hwa*

hit stæle. 10—11 is much altered: from *nullusque hoc viderit* is taken opposite sense, *gif he gewitnesse hæbbe*, and thereto is joined the end of 11 as *ne þearf he þæt zeldan*; then *nullusque hoc viderit* and the rest is given. 18, strange mistake of putting *quam virgines accipere consueverunt*, belonging to the preceding ordinance, but not translated with it, before *maleficos*, thus gaining the utterly different meaning of *þa fæmnan þe zenuniað onfôn zealdorcræftigan . . . ne læt þu ða libban*, a peculiar and very severe injunction. XXIII, 1, 2 is represented by a strong polemic against evil and seditious speech, that is hardly a translation, although it shows a clear idea of the meaning of the text; cf. *Æ.*'s Law XXIX (32). 4, in *si occurreris bovi inimici tui erranti, reduc ad eum, reduc* is changed to *gecyðe*, an alteration of the same significance as the omission of v. 5 (which see). 6 is freely and strongly translated, 9 also is very free.

Augmentations: Mostly the addition, common in all *Æ.*'s transl., of synonyms and explanatory phrases: XXI, 10, *þæt is se weotuma azife he hire þone*; 13, *nedes ofsloze oððe unwillum oððe unzewealdes*. Of more significance is *sie he feores wyrðe 7 folc ryhtre bote, gif he friðstowe zesece*, a thoroughly A.-S. addition to the Latin *constituam tibi locum in quem fugere debeat*. 14, *per industriam, of giernesne 7 gewealdes*; 16, *convictus noxae, 7 hit onbestæled sie þæt he hine bereccan ne mæge*. XXII, 3, *buton he nied dæda wære*, is *Æ.*'s own. 18, *maleficos, zealdorcræftigan 7 scinlæcan 7 wiccan*; 26—27, *si clamaverit, gif ðu swa ne dest, þonne cleopað etc.*; 29, as if to compensate for the omission of *De bobus quoque etc.*, *gongendes 7 weaxendes*. XXIII, 9, is much expanded.

The version of the Epistle from Jerusalem, taken from Acts XV, vv. 23—29, affords subject for a few comments. The only differences worth notice between *Æ.* and the Vulgate are that he omits the local address of the Epistle in v. 23, having just made use of it, that he alters *tradiderunt animas suas* into *wilniad hiora sawla sellan* in v. 26, and that he adds a clause at the end. This final clause is very interesting. It does not come, as Thorpe and Schmid suppose, from Matt. VII, 12. It is a very ancient interpretation in the text of the Acts (vv. 20 and 29) found in Greek and several ancient versions, being

as old as the second century. Here it is doubtless a bit of an old Latin text adhering to a Vulgate Ms. Such old Latin survivals in Vulgate Mss. are very common.¹⁾

Summary: We find that Æ. used for his historical introduction: Exodus XX, 1—3, 7—10 (beginning), 11—16, 17 (shortened), and 23; XXI entire; XXII, 1—5, 6—8 (in part), 10—11 (in part), 16—29, and 31. XXIII, 1, 2, 4, 6—9, and end of 13; — Acts XV, 23—29, including an ancient reading in 29 not belonging to the standard Vulgate text. The use, already noted²⁾, of Matt. V, 17, VII, 1, 2 and XXII, 37, 39, in the original part of the Introduction may here be recalled to mind.

4. The Sources of the Laws as given in the Introduction Proper. Divisions of the Laws. II—XXXIX: The Miscellaneous Laws.

As Ine's Introduction told of those that had most assisted him in the preparation of his laws, so Æ. wishes to mention the sources from which his collection had been compiled. This he does, without any break, in close connection with his historical recital. This he had closed with the following words: *hie ða on monegum senodum monegra menniscra misdæda bote zesetton 7 on monegu senod bæc hie writan, hwær anne dom, hwær oþerne*. These clauses belong, we think, to the sense of the opening sentence of the part now under consideration, where Æ. proceeds: *Ic ða ælfred cyning þæs togædere zegaderode 7 awritan het, monege þara þe ure foregezan heoldon ða ðe me licodon* (here is an anacoluthon which Ve. corrects with *reservavi*) *7 manege þara þe me ne licodon ic aþwearp mid minra witenas geðeahte 7 on oðre wisan behead to healdanne*. Æ. then goes on: *forðam ic ne dorste geðristlæcan þara minra anuht fela on gewrit settan, forðam me wæs uncuð hwæt þæs ðam lican wolde ðe æfter ðs wæren*, and then finally, *ac ða ðe ic gemette anðer oððe on ines dæge mines mæges oððe on offan mercna cyninges oððe on æpelbryhtes þe ærest fulluhte onfeng on angelcynne, þa ðe me ryhtoste ðuhton ic þa heron zegaderode 7 þa oðre forlēt*. We have divided these sentences into three parts, to show how Æ. indicates three, or rather five, sources of his laws, yet the whole seems

¹⁾ For this interesting information we are also indebted to Dr. Hort.

²⁾ See pp. 31, 32, 33.

to belong together and its references are indefinite and inter-connected one with another. While we take *pās* to refer to ordinances recorded in the *senoð-bêc*, yet the context indicates that in Æ.'s mind his laws as collected from them are foremost. The laws of synods were not altogether ecclesiastical and Æ.'s reference to the betrayal of a lord shows that he did not wish to be so understood. In fact Æ. seems to mean by them all the laws *þe ure foregezan heoldon*. The laws of the three kings, though not the resolutions of ecclesiastical synods, were still both in their origin and content largely ecclesiastical and, in an indefinite way, Æ. includes them with the rest. All this must be borne in mind in noting, for convenience's sake, the following five sources: 1. Synodical Laws, 2. Æ.'s own Laws, 3. Laws of Ine, 4. Laws of Offa, 5. Laws of Æðelbirht. As to the use made of these sources, Æ.'s own statements lead us to expect that he adopted but few laws entirely his own¹⁾ most of his collection is therefore from the adoption or revision, as he indicates, of laws from the other sources. With a view to our future discussion of Ine's Laws, however, attention may here be drawn to the indefinite and inexact character of this whole paragraph, and the way in which the laws "of the days of Ine, Offa or Æðelbirht" are mentioned all together. As already shown, this mention of the laws of the three kings is to some extent a repetition of what is said at the beginning of the paragraph, a particularisation induced by and in contrast to the mention just made by Æ. of himself and his own laws. In like manner the clauses following this mention of the kings parallel those above after the first reference to the laws that Æ. had collected. No reference is made to a particular law-book of any single king, and, evident as is their general intent, these concluding clauses, thus introduced, do not, we are convinced, furnish sufficient ground for the statement that Æ. must have revised or excerpted the code of each one of the kings and that the code of no one of the three could appear unrevised in Æ.'s compilation.

¹⁾ It is quite likely that Æ. had in use some laws of his own before this code was compiled, whose earliest possible date is after many years of peace.

The division of the Laws has already been made at the outset in dividing the entire Code. It remains but to state its grounds. Ine's Laws are so called because Chap. XLIV, entitled *Be ines domum*, is evidently the formal introduction to the code of King Ine of Wessex. The placing of Æ.'s revision of Æðelbirht's code concerning bodily injuries, which XL—XLIII readily appears to be, in a separate section, is merely for purposes of treatment. Only in subject matter is it distinguished from the laws preceding it; formal distinction there is none. This leaves Chapters II (1)—XXXIX (43) to be considered together as "Miscellaneous Laws".

It is not our purpose in considering these laws to endeavour to search out a source for the single chapters. Such a treatment of them would be legal, rather than literary, in character. The object of our observations here can only be to verify by actual investigation the information as to the sources used already gathered from Æ.'s own words. A considerable use of Ine and Æb. is shown outside these miscellaneous laws. The examination of these yields rather indefinite results. The loss of Offa's code is of course serious hindrance. It is, however, pretty clear that Æ. could have adopted but few laws not suggested to him by an ecclesiastical or Biblical¹⁾ source or by some law of the three kings; there are apparently not many entirely original laws of Æ. Yet in most of these the suggestion is all that is borrowed, the law is really Ælfred's and to him unquestionably is to be ascribed the whole character of this part of his code. How important a part in it Offa's Laws play, must probably remain an unanswered question. That a number of them were used by Æ. here, there can be no doubt, but probably they underwent, as others did, a thorough revision. The supposition of Palgrave²⁾ that Offa's Laws occupied in a second promulgation of Æ.'s code for Mercia the place in which Ine's Laws are found in what he calls "the statute for the West-Saxons", is to be positively rejected. There is no evidence of any sort for such an assumption, and the fact that

¹⁾ Compare 9 with Intr. 18; 23—4 with Intr. 21; 32 with Intr. 8 and 40—41. Is 13 possibly suggested by Deut. XIX, 5, quoted by Gregory in Past. Care and found in Æ.'s transl., Chap. XXI?

²⁾ See I, E.

Ine's Laws occupy such a position as they do, affords, as will be shown¹⁾, no ground for allotting to Offa's Laws a like place in a supposititious publication of which neither in Ms., nor ancient translation, nor ancient tradition any trace whatever can be found.

5. XL—XLIII: Ælfred's Revision of Æðelbirht's Code concerning Bodily Injuries.

The second part of the laws is interesting by reason of the insight it gives into Æ.'s work as a reviser. Its source, or perhaps more accurately model — for the salient point, the penalty, is almost always altered by Æ. — is found in Chapters 32—72 of the Laws of Æðelbirht²⁾ as preserved in the Textus Roffensis.³⁾ Here we have a list of fines that follows in general the order of the parts of the body from head to foot. In some places, however, as 38, 56, 66, this order is broken; again provisions seem to be repeated, as 45, 49, while others that should occur are wanting. All these are meagre in expression, some doubtful in meaning. Æ.'s revision is in four chapters, but the fourth, under the convenient title, *Be monnes eazwunde 7 oðerra missenticra lima*, includes a great number of provisions; the whole occupies 44—77 in the new numbering. 44—64 go in the most exact order from crown to toe. 44 adds to the penalties for an injury to the head in Æb. 36, 37; 45 is Æ.'s own, but cf. Æb. 33; 46 (ear) doubles fines of Æb. 40, 39; 47 (eye) revises Æb. 43, 44; 48 (nose) displaces Æb. 45, 48; 49 (tooth) revises Æb. 51; 50 (cheek) displaces Æb. 46, 47, 50. 51 (throat) is Æ.'s; so also 52 (tongue). 53 (shoulder) shows the same penalty as Æb. 38; for 54 and 55 (arm) cf. Æb. 53. In 56—60 Æ. fills out Æb. 54, 55 by allotting a provision to each finger and the nail thereof, a notable instance of his love of order. He now returns 61 to the trunk, cf. Æb. 61; then comes 62 (thigh) for Æb. 67, and 63 (shank) Æ.'s own provision; 64, cf. Æb. 70, 71, provides for each toe in exemplary detail. — This part is carried through with perfect regularity, as well as great

¹⁾ See below p. 46.

²⁾ Publ. by Wilkins, p. 1, Thorpe, Vol. I, p. 1 and Schmid, p. 2.

³⁾ See p. 14.

exactness and even fulness of expression, and constitutes, so far as it goes, a perfect code by itself. To this Æ. adds a number of miscellaneous regulations, most of which have no counterpart in Æb. For 65 cf. Æb. 64, for 68 Æb. 38, for 71 Æb. 69. Many of these are of a complex character, referring to different parts of the body at once, as 66, 1 and 71, some refer to no part in particular, as 74.

This brief sketch of Æ.'s work here can hardly fail to have brought to view its salient point, the strong sense of order and clear conscious purpose that actuate it. The form of Æb.'s provisions — a mere collection of curt notes — did not please Ælfred, the order in which they were arranged was not satisfactory to him: he did not, therefore, content himself with simply altering the size of the fines, but, in spite of the great labour involved, constructed in place of the old code a new one satisfactory to his sense of order and to his views of literary propriety.

6. XLIV—CXX: The Laws called Ine's: Their relation to the Code: Ms. Evidence; Views of Schmid; The Compendious Character of this Work; Right of Ine's Laws to be considered an Intrinsic Part of it; These Laws not revised by Ælfred, but interpolated by his Predecessors.

We have already in dividing the Laws drawn attention to the fact that as Chapter XLIV appeared the introduction to the Laws of Ine, and that the chapters following could accordingly be regarded as Ine's Laws. Not only has this natural assumption in the past been freely made, but indeed all editors, excepting Thorpe, have separated this part of the Code from the rest, placing it then on chronological grounds before the "Laws of Ælfred" as the "Laws of Ine". Authority for this proceeding there is none. Six A.-S. Mss. and all the old Mss. of the Ve.¹⁾ agree in showing that Æ.'s code did not exist without this part of it, and of Ine's Laws, independent of Æ.'s code, there is no more trace than of Offa's. The evidence being thus all on one side, no argument should be necessary, in spite of the course taken by so many editors in contradiction to the

¹⁾ Only Bromton and one or two other late adaptations of Ve. put Ine's Laws first for the same reason as the edd.

Mss. Yet Schmid, the last editor of the Laws, not content with placing "Ine's Laws" before Ælfred's, goes so far as to refer¹⁾ to "die Vermuthung, dass Aelfred seine Gesetze für Westsachsen in Verbindung mit Ine's Gesetzen publiciren liess"! As Ine's Laws were otherwise unknown to us, this "supposition" may be stated to be correct!

Though for such a remark as this a refutation merely on Ms. grounds be sufficient, Sch.'s expressions in concluding his consideration of the question as to Æ.'s relation to the laws of the three kings, open a new field of controversy and demand that we show the position of these laws in the Mss. to be not unnatural, but altogether right, proper, and to be expected. Sch. says²⁾: "Wir müssen uns bescheiden eine einigermaßen sichere Antwort auf diese Frage geben zu können, nur müssen wir darauf aufmerksam machen, dass die Annahme am nächsten liegt, Aelfred habe gar keine Publication der beibehaltenen ältern Gesetze für nothwendig erachtet, sondern nur in sein Gesetz aufgenommen, was er ändern oder neu hinzufügen wollte. Es blieb Sache der Richter, das neue Gesetz mit den ältern geschriebenen und ungeschriebenen Rechtsnormen, wie sie in jedem Lande in Gebrauch waren, zu vereinigen". However well this statement might apply to other A.-S. kings, it involves in this case a real misconception of the nature and aims of the work. Æ.'s code was meant to be a legal compend. We gather indications and proofs of this from the most diverse sources. The spirit displayed by Æ. in his whole political and literary activity leads us to expect such a work from him, when once he takes the rôle of lawgiver. The purposes that caused him to strive so mightily to put all in the state on a firm and lasting basis, the aims shown in the translation of so many great works to raise the standard of learning among his people, lead us to expect of him now a different course from merely altering or adding a certain number of laws, leaving all the rest, along with the question of its retention or rejection, to his incompetent judges. More than this, Æ.'s own words in the Intr. are opposed to Schm.'s view.

¹⁾ See (I, E) p. XXXVII.

²⁾ See (I, E) p. XL—XLI.

He says distinctly that he did take up into his code laws of his predecessors that he wished to retain; he expresses most clearly his preference for such laws before his own to make up this code. Strongest, however, is the evidence gathered from our consideration of the code itself. We see clearly from Æ.'s omissions and changes in his rendering of Biblical injunctions that, without putting them on a par with his own ordinances, he still intended them to be studied and observed by his people. This and his account of the work of the mediaeval synods, shows how in his eyes his compilation extended over the whole period from which any tradition of laws was preserved. And, as always, he gathered from the past to make good for the future, alive to the important question *hwæt þæs ðam lician wolde þe æfter ðs wæren.*

There is surely no possible ground for doubting the compendious character of this work, nor can there be any question as to the labour expended upon its compilation, evidenced by the revision just examined. That in such a work these laws, the standard law of the West-Saxon kingdom, should appear, seems on the face of it self evident. And the necessity of it becomes more clear from a comparison of them with the rest of the code. They are found to contain a large number of provisions, wanting otherwise in the code, yet absolutely necessary to it. In the first part we find ecclesiastical laws, laws concerning the rights of lordship, of inheritance; Æ. goes so far as to fix the responsibility for the misdeeds of a deaf mute; he mentions various special cases of assault, certain special cases of murder and two of theft¹⁾; but for the great mass of cases of theft, harbouring thieves, receiving stolen goods, etc., he has no provisions whatever. The omission of these in such a compend of law would be inexplicable. Their absence in this part of the collection is wholly justified, however, by their presence in great numbers among the laws that Æ. had reserved for the last place in his code. Æ.'s laws against stealing from a church are about the only possible additions to the remarkable collection already in his hands on that subject. Here thievery seems to be regarded from every imaginable

¹⁾ Viz: 6, 16, but 9, 2; 12; 22 bear more or less upon it.

point of view: robbery in general and forcible spoliation (10), a servant's theft (22), former theft of a new-made serf (48), theft with or without the wife's knowledge (7), theft of wood (44), of mast (49), of meat (17), of a man (53); then concerning a thief caught in the act (12), catching a thief (18, 37, 28), catching a thief and letting him go (36, 72, 73), harbouring a fugitive (30), concerning slaying a thief (16, 35), concerning stolen goods (47, 75, 35, 1, 46), not to mention a stranger taken for a thief (20) and the slaying of the same (21). To the subject of murder fewer chapters are devoted and *Æ.* accordingly introduces quite a number among the miscellaneous laws. There can be no question that *Æ.* collected his laws with regard to those already found in the code of Ine, to which he intended to give a place in his law-book. This is the reason that the newer part of his code rarely, if ever, comes in contact with this older part. Analogous is his course in omitting penalties for wounds from his miscellaneous laws, having resolved upon a revision of *Æb.*'s collection on that subject. As to the position given Ine's Laws, it may be that he regarded the rest of the laws as a compilation from sources older than Ine's time, or at least as old, whereas the code bearing Ine's name was the present standard law of the kingdom, and he therefore puts these after the Biblical extracts and lets Ine's Laws follow them. At all events, the position of the laws called Ine's as an intrinsic, inseparable, part of *Ælfred's* Code, attested to by all the Ms. tradition, is equally well established as consistent with the aims of the author and the character of his work.¹⁾

The relation of *Æ.* to this part of his code is, none the less, by no means so close as to the other parts of the compilation. There are substantial grounds for asserting that *Æ.* did not revise the laws of Ine. This is indicated by the retention of the original introduction, which points to the adoption of the code bodily; it is evidenced also by the retention in it of one or two provisions supplanted by similar ones in *Æ.*'s other laws (cf. Ine 45 with *Æ.* 40, and Ine 6, 2 with *Æ.* 15), it is put beyond peradventure by an examination of the entire code. We find in it not only utter disorder as to arrangement,

¹⁾ Cf. Pauli (I, E) p. 165, near the foot, apparently unknown to Sch.

but the same subject treated from the same point of view in many places (cf. the list just given concerning theft), sometimes, as 18 and 37, 16 and 35, in particular, the same provision appears twice in nearly the same words. Compare the condition found here with the results of our examination of *Æ.*'s revision of *Æb.*, and the impossibility of believing in any *Ælfredian* revision of *Ine* must appear. Only the chapter headings are *Æ.*'s work.¹⁾ We have already²⁾ done what we could to reconcile *Intr.* 49, 9 with this fact; we will only add here that the absence in so inexact a statement of a special clause saying that this standard law of the kingdom had been taken up bodily into the code, is less to be wondered at if we consider that such a statement would be purely formal and have no practical value, in as much as this code was well known to West-Saxons and its retention complete was patent to all. Nor has, in fact, the idea of a revision found friends at any time. Schmid³⁾ considers it, because of *Æ.*'s statement in 49, 9, to follow from Palgrave's statement that *Ine's* Laws are annexed to the statute of *Alfred*.⁴⁾ Palgrave did not mean it so, however, for he says, "The laws of *Offa* have not been preserved in their original form, and we cannot distinguish them in the capitulary of the King of *Wessex*. But the Laws of *Ina* are annexed etc.", which shows that he believed *Ine's* Laws to be preserved here in their original form.

Though right as to an *Ælf.* revision, *Pal.* is wrong in considering, or permitting the inference, that these laws appear in their original form. They are preserved to us by *Æ.* in the form in which, as the current law of the kingdom, he found them in his day. But we doubt if one half the code really existed in *Ine's* time. *Ine* having been the first great West-Saxon law-giver, the code naturally retained his name, but through so long a period it received many accretions. The very condition that argues most strongly against an orderly *Ælfredian* revision is proof positive of a careless interpolation and augmentation by *Æ.*'s predecessors. Take away all long chapters and all chapters repeated from or suggested by preceding

¹⁾ Cf. below p. 47.

²⁾ P. XL.

³⁾ Cf. p. 39.

⁴⁾ See I, E.

chapters, and perhaps something like the original code would be the result. It would, at all events, then gain a resemblance in form to the collection of legal notes known as *Æðelbirht's Code*, which undoubtedly bears the stamp of great antiquity.

7. Conclusion: Construction of the Code as a Whole; The Chapter Headings; Critical Comments.

The different parts of *Æ.*'s code that accdg. to our division we have now considered in order, had, if we consider the Introduction as one part, each its separate origin. The order of time in which the parts arose seems to be exactly the reverse of their order in the Code. *Ine's Laws* lay ready before *Ælfred*, the revision of *Æðelbirht* was resolved upon and probably made before the miscellaneous laws were collected, and, whether the translations in the *Introd.* were made before the completion of the code or not, they were destined unquestionably for it¹⁾, and the entire *Introd.*, including the original parts, in all probability was not written until the rest of the work was done. Prefixed to the whole is the last of *Æ.*'s manifold labours in connection with this undertaking — the chapter headings. This set of headings is itself quite interesting. It belongs to the literary, rather than to the legal, character of *Æ.*'s work. *Æ.* found, we believe, no chapter headings in *Ine*. There are none to this day in the old Kentish laws. In the *Pastoral Care* and other Latin writings appear headings over the chapters indicating the contents of each. These are placed all before the text as a sort of synopsis or table of contents. Our headings are quite similar in form to those in *P. C.* and are possibly modelled directly after that translation. That they are not of legal origin seems to be shown also by the fact that they are not given to every law nor to laws alone. After the various parts of his code were in place and connected together *Æ.* wrote out this set of headings, covering loosely most of its contents. It begins not at the first law nor at the beginning of the code, but immediately after the translation; it includes *Ine's* introduction as a chapter and it leaves many a law to make one chapter with the law preceding it, without recognising

¹⁾ The Decalogue, as *Wülker* suggests, may well be an exception.

its subject in the heading. The set of titles thus made becomes here as in other works a sort of table of contents for the whole. According to it, not according to separate subjects or provisions, the division into chapters was then made.

The great value of this code for law and history has been sufficiently emphasized already by others and is not likely to be underestimated. From our own observations it is difficult to gather any homogeneous results, as each investigation lay in a different field. A word may be said however as to the literary significance of the work. One thousand years have elapsed since its composition; the ordinances of the Apostles were nearer to Æ. in time than are his laws to us. We must bear this in mind in forming an estimate of this undertaking. Let us think what it meant to form in that day such a conception of a code as his! The fidelity and prudence with which he carried out his plan are remarkable. In the selection and adaptation of extracts from the Bible, in the establishment of an historical connection between them and his laws, in the selection of the various laws to add to his conscientious revision of *Ædelbirht* and to the code already in his hands, Æ. displayed his for that time remarkable learning and his for all time admirable traits of mind, literary taste and judgment combined with political foresight. Yet to the largeness and worthiness of Æ.'s idea of a legal compend covering all human history the greatest recognition is due. The work itself is small, but it bears testimony to the greatness of its author.

Chapter II.

THE DATE OF THE CODE.

The question of the order in time of Ælfred's literary productions has had to be treated with practically no aid from direct testimony of any sort; to this fact, no doubt, is due the great difference of opinion on this point that has long subsisted. Pauli¹⁾ and Bosworth¹⁾ give the arrangement: Boethius, Beda,

¹⁾ See p. 8.

Orosius, Pastoral Care, referring to W^m of Malmesbury's¹⁾ remark that the text of Boet. was glossed or explained for Æ. by Asser. Ten Brink²⁾, without mentioning his reasons, adopts the order: Oros., Beda, Boet., P. C. A new light was thrown upon this matter by the first detailed investigation of it, that of Wülker in the *Grundriss*.²⁾ Here the place of P. C. at the head of the list is attested by expressions in Æ.'s preface, and that of Boet. at the end by his additions to the text. Wülker further draws attention to the varying relation of the rendering to the original, and points out that a free treatment of the matter at hand indicates increased literary experience. Thus Handbook, P. C., Beda and Oros. are put in the first period of peace, before 893, while Boet., with the Soliloquies and 'De videndo Deo', is assigned to the closing years of Æ.'s life, 897—901.

The arguments here offered and the conclusions reached have justly commended themselves to those that have since had occasion to deal with this question: Schilling³⁾, Ebert, Körting, Wichmann⁴⁾ and Schmidt have in turn accepted them. Schilling and Schmidt indeed have done more: their detailed examinations of the relation between the A.-S. and Latin texts of Oros. and Beda respectively have furnished strong confirmation of the order given, which now seems as well established as such a hypothesis can be. The character of each of the great translations is now definitely ascertained. In the P. C., which Æ. in the preface declares to have been written by him as he learned the meaning of the Latin from four clerical assistants, words are treated quite freely, but each clause is translated without any attempt at adaptation of the matter given. This agrees well with Æ.'s statements. Not yet master of the Latin, he could not give exact translations nor did he yet feel equal to altering or handling freely the work before him. Although, as Sweet⁵⁾ says, P. C. is not a translation in our sense of the term, neither is it an adaptation; it is a careful 'rendering' of the sense of the Latin original. Beda, however, as Schmidt

¹⁾ See p. 8, Hardy, II, 122. ²⁾ See p. 9. ³⁾ For all these, see p. 9.

⁴⁾ Wichmann adds to the list of Æ.'s works the doubtful 'Psalms', which, on internal evidence as well as on W^m of Malmesbury's testimony, he considers Æ.'s last production.

⁵⁾ See p. 8.

shows¹⁾, is for the most part a remarkably literal translation. A large number of chapters, however, are omitted altogether, for which there is often some reason discernible²⁾; there are also smaller omissions, alterations, condensations, but (a fact often remarked and lamented) only very slight attempts to add anything from the king's knowledge of the subject. The actual translation is generally far more literal than P. C.³⁾, the work as a whole, however, is much more freely treated: apparently Æ. now understands, as he ought, the Latin much better, while his omissions make the first approach to the perfect freedom of adaptation which separates Oros., and still more Boet., from the other works.

In adopting the order given we have, unfortunately, but gained a basis for our consideration; the Laws have not been included in any actual investigations; in the 'Grundriss' alone are they given a definite place in a list of Æ.'s works. The reason is, of course, that this code has not, heretofore, been generally considered except in its place among A.-S. laws. In attempting a consideration of the question we must confess at the outset that its results, like the material at hand for it, are likely to be meagre and unsatisfactory. This work differs from those discussed in being for the most part original; it lacks too any allusions that might help to determine the date. We are confined, then, to general observations as to the subject of the work, to a search for possible allusions to it in other works, and to the comparison of its fragment of translation (in the Introduction) and its general literary tenour with the conditions noted in the other works.

No value can be attached to W^m. of Malmesbury's statement that Æ. made laws amid the tumults of war.⁴⁾ As Pauli and others have said, this code cannot have been made during actual war; it is a work of peace and its provisions are for a people at peace. Nor was this Code published immediately after peace was declared: whether or not Æ. gave some laws

¹⁾ Cf. p. 46 in Schmidt's work.

²⁾ Cf. pp. 15—19 in Schmidt.

³⁾ Cf. Schmidt, pp. 47—56.

⁴⁾ *Ille inter fremitus armorum et stridores lituorum leges tulit.* See p. 8, Hardy (II, 122).

in the interim, this code cannot have been made before he began his literary labours, of which the extracts from the Vulgate were a fruit. The beginning of these labours is set at Asser's first visit in 887. To be sure, the Decalogue had probably been rendered into A.-S. before Æ., but the rest was certainly made by Æ. for these laws. This is shown¹⁾, for example, by omissions in XXI, 22, XXIII, 3 and 5, by alterations in XXI, 2 and 30, XXII, 1, XXIII, 1, 2, etc.; indeed the whole character of the translation attests this beyond peradventure. Such a work of translation cannot have been undertaken by Æ. before Asser's visit.

This conclusion brings us to the consideration of the by no means insignificant argument from the subject of the work, viz: that a code of laws ought properly to precede any other of Æ.'s works, because of the much greater need of it, a need that Æ., alive to less evident wants of his kingdom, should have been the first to feel. This argument, in its bearing on our code, is somewhat modified in effect by the fact just adduced that this work could not have been completed until some years of peace had passed. If Æ. had waited so long, a year more or less could hardly matter to him. Still when once Æ. set himself to literary tasks, a law-code should still have been his first thought, and we may with propriety resolve to put the code as near the beginning as other considerations permit. On this ground, we take it, Wülker²⁾ gives our code a place between the Handbook and the P. C., thus making it the first of Æ.'s extant works.

Our search for allusions to the Laws in Æ.'s other works yields but little. In the oft-quoted Preface to P. C., Æ. dwells at length upon the various translations of the Law (*sic æ*, the Pentateuch): how it and the other books were translated from Hebrew into Greek and Latin and how afterwards many other Christian (i. e. Germanic) nations rendered them into their own tongue. This seems to show that Æ.'s mind was then on such work as he did for our Code, but it must be remembered that the translations lately made in the Handbook may well have

¹⁾ Cf. pp. 36—37, and Text.

²⁾ Grundriss, p. 398, foot-note.

covered similar ground. Moreover, we can hardly say whether this would point to earlier or later work on the Laws, though we should incline to consider it indicative of the formation of the plan merely; were our Code with its Introduction already completed, it might well have received more definite notice in this place. Another possible allusion is brought forward by Schmidt's work. Having previously shown how Æ. was accustomed to alter statements introduced in the original by *usque hodie*, *hactenus*, and the like, to conform them to the facts as in his time, Sch. finds certain such passages literally translated.¹⁾ This he believes to have been done in many cases because the statement was still true in Æ.'s time: among these "Fälle, in welchen man mit ziemlicher Sicherheit behaupten kann, dass Æ. wörtlich übersetzte, weil er aus eigener Kenntnis oder durch Mitteilungen anderer wusste, dass die geschilderten Verhältnisse noch fortbestanden", appears the following: *Qui (Aedilberct) inter cetera bona, quae genti suae consulendo conferebat, etiam decreta illi iudiciorum, iuxta exempla Romanorum, cum consilio sapientium constituit; quae conscripta Anglorum sermone hactenus habentur et obseruantur ab ea.* II, 5. — *Se cyning (Æpelbyrht) betwih ða opre god ðe he his leodum ðurh zeþeaht zefremede, eac swylce he rihtra doma zesetnesse mid snotera zeþeahte zesette æfter Romana bysena ond ða het on englisc awritan ða nu gena of ðis mid him hæfde ond zehealdene synd.* 506²⁵. — If we concur, as there is every reason to do, in Schmidt's view that Æ. intentionally translated this as it stood, then it seems to indicate not only that Æ. was acquainted with Æb.'s laws, but that he knew them to be still in use, a fact well explained by the existence of our code, with its adaptation of a great part of them. This conjecture would, of course, put the Code before Beda.

Both these possible allusions would place the Laws near the beginning of Æ.'s literary labours, thus agreeing with the conclusion reached at the outset by a consideration of the subject and nature of the work. We must now endeavour to bring the matter, so far as possible, to a final determination by a consideration of the general literary character of the work,

¹⁾ Cf. Schmidt, p. 57.

and of the results of our comparison of the translated part with its original. At the close of the preceding chapter and at various points throughout it¹⁾, we have drawn attention to the skill with which Æ. handles the component parts of his code, shaping and adapting them to his purpose, and welding them together in a coherent whole. The work done here is far in advance of anything in other A.-S. codes. It leads us to look for a man of some literary experience, as well as natural talent. Extensive as it is, the P. C. exhibits little, if anything, of this sort. Though, of course, the author of P. C. might at that time have been in a position to do such work as this, still Æ. appears on the face of the matter to have been working then on a somewhat lower plane. Not until the Preface, written after the translation was completed, does he give proof of any literary skill, and here too there is nothing that can be said to excel the Introduction to the Laws, which might well have followed after a short time.

The condition of matters with regard to the translation is much the same. We find here a clear advance toward the Beda. There are discernible in our Introd. the two marks that distinguish that work from P. C., viz: general adherence to the words of the text, and occasional freedom in adapting the matter. As to the first point, the beginning of Chap. XXI and many other passages may be compared with Schmidt's instances from Beda²⁾, which they at least approach. Here and in regard to the next point, we must not forget the great difference in size between the two translations. To show occasional adaptation, however, the changes³⁾ in XXI, 2, 30, in XXII, 1, 7—8, and in XXIII, 4, and as well the omissions in XXI, 9—10, in XXII, 8, and in XXIII, 3, 5, may be put in evidence. They differ only in number and variety from those cited from the greater work⁴⁾; the spirit is the same in both. In respect of augmentation, indeed, our work⁵⁾ shows little

¹⁾ Cf. pp. 31, 32, 33, 36, 42.

²⁾ Cf. Schmidt, pp. 50 seqq.

³⁾ Cf. pp. 36—37 and Text.

⁴⁾ Cf. Sch., pp. 19—24.

⁵⁾ Cf. p. 37.

more than the same use of synonyms with P. C.¹⁾, exhibiting no independent additions; Beda²⁾, however, is little in advance here. In other respects we have certainly been able to note a difference between the Laws and P. C. Other causes than increase in experience might explain such a change; in the absence, however, of any other evident reason, we cannot but ascribe it to some difference in time.

The conclusion from our literary examination is, then, that the Laws come after P. C. In adopting this result, we follow other indications at the expense of the argument that the Laws, as the most necessary work, should naturally have come first. But as we have already shown, the weight of this argument is not great, when a small difference of time is in question. Then too, Æ. had Ine's Laws and probably some of his own already at hand. In the Introduction (49, 9 and 10) he tells us he prefers the old Laws, and shows that he regards his own work as one of compilation and revision, saying nothing, moreover, as Ine does, of the need for laws in his kingdom. On the other hand, in P. C. he speaks most seriously of the great demand for such a work to enlighten the shepherds of his people. In view of all this, perhaps our Law-book seemed at the time no more pressing a necessity than the other — the code that was to help spiritual leaders in guiding men aright.

We have no wish to put the Laws any later than this. Not to mention the possible allusion to the Code in Beda, there is no evidence which, in view of the consideration just discussed, should place it farther from the beginning of Æ.'s labours, to the earlier stages of which it no doubt belongs. Evidently Æ. had much of this work already at hand. The plan of the Introd. he may have had in mind when he wrote the Preface to P. C.; at all events, as already remarked³⁾, it is a result of the same educational purpose that animates the

¹⁾ Cf. Sweet (I, F), p. XLI.

²⁾ Cf. Sch., pp. 30 seqq., also 37.

³⁾ Cf. p. 33.

earlier work and is so earnestly expressed in the Preface. If we suppose the Introd. to have been prepared shortly after this, the publication of the completed Code may be set in the year 890. This seems a fair conclusion from the facts before us: it must, however, be remembered that the materials gathered for this work are inadequate to its final accomplishment, and that our conclusion is at best but a careful conjecture.



V I T A.

I was born in Norwalk, Connecticut, U. S. A. on the 28th day of June, 1866, and am the son of J. Turk, Esq., now of New-York-City. For eleven years I attended the Center Public School of my native place: during the last part of my course there, I enjoyed the instruction of Mr. G. A. Black and Mr. C. A. Tucker, to whose kindness I owe much. On leaving school my studies were immediately resumed at Columbia College, from which institution I was graduated in 1886. In the same year I entered Strassburg University, where I had the pleasure of hearing Professor ten Brink. Later a term was spent in Berlin under Professors Zupitza, Hoffory, Roediger and Ebbinghaus. The greater part of the 'triennium' was passed at Leipzig in the study of English, German and French Philology and Philosophy, under the excellent instruction of Professors Wülker, Zarneke, Heinze, Ebert, Hildebrand, Biedermann, Wundt, Settegast, von Bahder and Kögel. In thanking all that have thus laboured for my good, I would especially mention my debt to Professors T. R. Price and H. H. Boyesen of Columbia, and to Professor R. P. Wülker of Leipzig. The great personal kindness of the last-named scholar has supplied me with many most pleasant recollections of my University life.